

U.S. DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
CALIFORNIA DESERT DISTRICT ADVISORY COUNCIL

REPORTER'S TRANSCRIPT OF PROCEEDINGS

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REPORTED BY: JUDITH W. GILLESPIE, CSR, RPR
CSR NO. 3710

JOB NO.: 62507JG

1 A-P-P-E-A-R-A-N-C-E-S

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3 MEMBERS PRESENT:

4 BOB ELLIS
ROY DENNER
5 HOWARD BROWN
RANDY RISTER
6 RON KEMPER (CHAIRPERSON)
PRESTON ARROW-WEED
7 JON McQUISTON
RON SCHILLER
8 PAUL SMITH
BILL BETTERLY
9 JIM BUGERA

10 STAFF PRESENT:

11 LINDA HANSEN, DISTRICT MANAGER
GREG THOMSEN
12 BILL HAIGH
LARRY LA PRE
13 ED LA RUE
DORAN SANCHEZ
14 TIM READ
STEVE RAZO

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1 Riverside, CA

Saturday, June 28, 2003

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P-R-O-C-E-E-D-I-N-G-S

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MR. SMITH: As vice chairman and in the
face of needing to move forward, my name is Paul
Smith. I'm the vice chairman, hopefully our chairman
Ron Kemper will be here shortly. I would like the
morning session to be led with a pledge of allegiance
by Bill Betterly.

12

(Pledge.)

13

I'm going to assume that the court reporter
is noting the attendance and the fact that we have an
elected official, being Mr. McQuiston, with us and
that this is a lawful quorum.

17

The first item on this morning's agenda is
a review and recommendations to the BLM with respect
to the signing policy. And myself and Bob Ellis will
cover that. And maybe in the absence of having
working microphones, we will stand right up there.

22

For those people in the audience, if you
don't have a copy of this document, that's what we are
going to be talking about. And the Council will take
action on it this morning, and there is a stack of

1 them right here. You can come right up and get them.

2 Maybe I'll sort of introduce the subject.

3 I will introduce the subject by discussing what we are
4 not going to do. The routes of travel have all
5 already been covered and designated, so we are not
6 here to talk about what is or is not a route of travel
7 or what is or is not a primary or secondary route.

8 What we are really here to discuss is a
9 recommendation to the director on the signing policies
10 as to how these routes should be signed. Bob Ellis
11 and I were both members of the technical review team
12 that dealt with the issue, as was Jeri Ferguson, who
13 can't be with us today. So I think what we will go
14 through is item by item what is in this policy, and we
15 will open it up for discussion.

16 Bob, I want you to describe the difference
17 between primary and secondary routes and what that
18 policy provision provides.

19 MR. ELLIS: First, I believe it was last
20 summer, almost a year ago when we started this. We
21 had three meetings, at least in July and maybe
22 September, and then I think another one in November.
23 There were three or so of us at each meeting from the
24 DAC, there were perhaps five to seven or eight BLM
25 staff, and she tried to get staff from each office so

1 we could talk about a signing policy because the idea
2 is to get a policy consistent across the desert. The
3 public can understand, we hope, what these signs --
4 where they are on the map and if there is a map, and
5 what the signs mean in terms of whether they should be
6 there and how they should behave on these routes,
7 whichever they are.

8 Then our last meeting was in November. I
9 think you did give a report or an update at the
10 December DAC meeting. Since that time there has been
11 some staff work on this, and it now looks a little
12 more fancy. It says "draft" on it. There is some
13 kind of cover letter.

14 There has been changes in it since we had a
15 meeting with the DAC representation on it. So we are
16 presenting where we are at today. And we will go from
17 here. I believe the director would like some advice
18 from the DAC on this. So we are hoping to have an
19 action item. We don't feel it's a totally final
20 thing. There are things in here that probably do need
21 to be improved over a period of time, especially
22 advice on maps. This is a start with respect to the
23 sign posting. So I can start on the primary thing.

24 MR. SMITH: Let's at least try to set a
25 goal of bringing this to a vote or amendments to a

1 vote by 10 o'clock because Roy Denner has to leave at
2 10:00. If we make it, we make it; if we don't, we
3 don't.

4 MR. ELLIS: Hopefully, most of you have
5 a document here.

6 I think one of the first things we wanted
7 to do was to really be sure that the general public
8 could have a very clear understanding of which routes
9 are encouraged -- for the casual user. So we felt
10 strongly there should be declared a primary network.
11 That primary network of routes would be clearly
12 identified. And that's what we basically wanted to
13 encourage use on and made sure at least the primary
14 ones are very clear on all the maps.

15 And actually, it's surprising it took us a
16 number of meetings to even decide on the word
17 "primary," but here we are. We are going to call them
18 primary. And what is going to happen is that offices
19 are going to designate routes within their areas to be
20 primary routes, from those that are in the set of
21 designated routes, whatever they may be.

22 MR. SMITH: One of the distinctions
23 between primary and secondary routes, the primary
24 routes, the BLM will establish a process where, if
25 possible, they will be named with common names so that

1 people can identify either with an area they go to.
2 They are looking for input from the Native American
3 community that might be identified by some natural
4 landmarks, that sort of thing, because these are the
5 major routes that people would be using to drive
6 through or to go to major destinations. If they are
7 identified by a common name, then that will create a
8 better sense of letting people know where they are.

9 The secondary routes, which will all be
10 identified by an alpha-numeric identification, and
11 they also will ultimately be signed. So one of the
12 key things is all routes will be identified by
13 signage. The placement of the signs will of necessity
14 be up to the local managers based upon the location of
15 the route, the difficulty of the route, that sort of
16 thing.

17 MR. BETTERLY: Question right there.
18 They will all be alike, but you said they will be
19 designated by the district managers.

20 MR. SMITH: The routes are already
21 designated.

22 MR. BETTERLY: But -- they are
23 designated, but the signs are not going to be up to
24 the individual managers.

25 MR. SMITH: The placement of them will.

1 MR. ELLIS: Maybe if we go to the second
2 page where we have CDCA route signing policy, and we
3 can go down that list here.

4 First thing under there, it says for those
5 routes which are open, which is generally -- what do
6 we have? Under the normal area, a route, if it's
7 there, it's going to be open. And then they have --
8 some routes do have some restrictions generally with
9 respect to seasonal use; those we are calling limited.

10 Closed routes are routes that used to be
11 there, but for whatever reason, generally identified
12 hopefully in some of these documents that are about to
13 be passed, they are considered to be closed. So that
14 you may see them. But those are the three categories
15 of routes. They are either open, limited, or closed.

16 Now, amongst the open routes, as we said,
17 we are separating those into "primary" and then
18 "other" or "secondary" routes. So the primary ones
19 are going to be signed, identified with route
20 number/name. And hopefully, we can have maps and
21 signs that talk about destinations that these routes
22 go to, accessing major sites or providing touring
23 opportunities.

24 These are the encouraged routes for the
25 average guy who doesn't know anything. He wants to go

1 out and have a nice day, have a picnic. He doesn't
2 have a fancy car, and he wants to not get lost.

3 Other open routes, secondary routes will
4 also be signed. The major problem, we want to be able
5 to give people enough information to understand where
6 they are legally and spatially. They want to go
7 somewhere for some reason, whatever, their purpose is
8 in the desert, they need to know, are they in a place
9 that's designated or not. So we felt routes need to
10 be signed.

11 Next thing, open wash zones will not be
12 signed as a particular wash. But open wash zones will
13 be identified on kiosks and maps.

14 MR. SMITH: This is something you may
15 want to give some thought to. The discussion went on,
16 should we not identify with a sign on the location of
17 each open wash. And the consensus seemed to be that
18 that was not highly practical, and that we were better
19 off to describe it in a kiosk that dealt with an
20 interpretive introduction to the area, which washes
21 were open. This may be a policy that might be
22 revisited four or five years from now to see how
23 effective it's working.

24 MR. ELLIS: Route names and numbers will
25 correspond to BLM-produced maps. We had some

1 discussion on this. This is where I think we will be
2 going forward, hopefully, with this group or some
3 other group. Because what map is showing the public
4 where they should go and where they shouldn't go?
5 There is no such thing right now. Much of the
6 complaints from people on all sides of this route
7 situation are, "We don't get good information. We
8 don't know where we are, and we don't know whether we
9 should be where we are."

10 So the DAC or the DAG maps are out of date,
11 both with respect to the land-use ownership and are
12 also way out of date with respect to these routes.
13 They are pretty complicated things to produce and
14 change and very expensive. We had a suggestion in the
15 group that maybe, much like what happened in 1994 when
16 the BLM produced sort of a quick book of wilderness
17 maps, and they produced it very cheaply. It was kind
18 of a put-together book. You could see right away
19 roughly where the wildernesses were and where they
20 weren't with a quick description.

21 We are hoping Steve Razo can put together a
22 model for some kind of quick book like a Thomas
23 Brothers' Guide that can be available to people and
24 they can look up and say, here are the general routes
25 here, it's on paper, it's not on CD-ROM. It's a

1 system that can be cheaply available. He has not
2 produced it.

3 MR. SMITH: But he is actively working
4 on it.

5 MR. ELLIS: That was our hope. These
6 maps, like the DAG maps, if they are even going to do
7 those, it's going to cost a lot of money; it's going
8 to take a lot of time. We are hoping we can cut down
9 on the expense and on the time lag and get something
10 out fairly quickly so we can all see where we are,
11 regardless of whether we are suing or we are not
12 suing. At least we know what we are talking about
13 when we are having these arguments out there. So that
14 is not in here, however,

15 Two more items on the open routes, kiosks,
16 brochures and portal signs will explain area rules and
17 route maps. Then we have easements across private
18 lands will be acquired for primary routes.

19 Next is limited routes will be signed, will
20 identify restrictions to the route. Gates or barriers
21 are installed as necessary. Limited routes that are
22 available for use only by authorized users will be
23 signed closed and/or gated, not rehabbed.

24 MR. SMITH: You could have several
25 different kinds of roads here or routes.

1 MR. ELLIS: As we said before, "limited"
2 means generally an open route, but there are some
3 restrictions on either who or when it can be used.

4 MR. SMITH: Or it might be a road or a
5 little spur that's used to store gravel for road
6 purposes.

7 MR. McQUISTON: Do you prefer questions
8 at the end of the brief or during?

9 MR. ELLIS: Let me get through this
10 first page, and then we will do that.

11 Closed routes will be rehabbed to the
12 extent possible in lieu of installing closed signs.
13 Will be signed closed when necessary to protect
14 sensitive resources. Closed signs will, to the extent
15 possible and reasonable, identify why the closure is
16 necessary. Closed routes that are required for
17 administrative use will be signed, closed and/or
18 gated, and not rehabbed.

19 Desert wildlife management areas.
20 Additional desert wildlife management area information
21 including closed wash zones will be identified and
22 posted on gateway kiosk signs.

23 I wanted to add one more thing under the
24 category of DWMAs or wildlife management areas. We
25 have in here later on the concept of a sticker which

1 would be on each sign within a sensitive area that
2 would just flag people's attention that we are in a
3 wildlife management area. Maybe that sticker may be a
4 tortoise sticker that says this is an area where you
5 need to be careful because it's managed for a certain
6 endangered species or sensitive use.

7 Now, let's take questions on this page
8 here.

9 MR. SCHILLER: You talk about acquiring
10 easements.

11 MR. SANCHEZ: Please identify yourself
12 for the court reporter so she will know who is
13 speaking.

14 MR. SCHILLER: Yes, this is Ron
15 Schiller.

16 You indicate that easements across private
17 land will be acquired for primary routes. What about
18 secondary or tertiary? And if a private property
19 owner decides that the public is not allowed to cross
20 his private property, especially on a secondary or
21 tertiary route, won't that destroy the continuity of
22 the route system?

23 MR. SMITH: How do I answer that? You
24 are dealing with a pretty complex, huge area. The
25 signing policy doesn't purport to deal with every

1 single possible problem that could come up.

2 MR. ELLIS: I'm not even sure what that
3 is there for. I don't remember talking about that
4 one. When I read that, too, I think RS 2477. We have
5 got a complicated situation when we start talking
6 about easements, especially on primary routes.
7 Because in San Bernardino County they even filed for
8 basically a perpetual easement on these roads. So I
9 would rather that not even be there. But what does it
10 mean? Maybe we can get some BLM staff to address it.

11 MR. SCHILLER: But still we are
12 designating a route across private property with some
13 questions that the continuity of the route system will
14 even be valid after it's done. And if it is, what if
15 we need to get to some very prominent well-established
16 destination that's very popular with the public? It
17 seems to me like we are setting up a big problem here.

18 Secondly, if you designated a route across
19 private property, at that point, do you assume
20 liability for anything that occurs to that private
21 property?

22 MR. SMITH: Let me go back to the first
23 statement, which is really -- because it's really to
24 digress into very important questions like you are
25 raising. What this is about is the signing policy so

1 that the BLM can get out there and start changing and
2 identifying on the routes that are both primary and
3 secondary, naming them and numbering them. It doesn't
4 really deal with how the routes were established,
5 where they are, that sort of thing.

6 And maybe Bob is really correct. Even the
7 signing policy shouldn't even talk about acquiring
8 easements, for example. I remember it did come up in
9 a minor way in the discussions. But the discussions
10 were focused on what signs should be up. Should all
11 of the limited routes, for example, be signed? Or
12 only ones in the discretion of the local managers?
13 And the consensus was that all of them should be
14 signed.

15 MR. SCHILLER: But by putting the sign
16 up in the first place, regardless of how the process
17 of designating the route, if it crosses private
18 property, aren't you assuming some liability or
19 responsibility for the public crossing that public
20 land -- or private land, excuse me? And often on the
21 maps that are available, private property less than
22 five acres is not even shown on most of your BLM maps,
23 your route designation maps, as such.

24 MR. ELLIS: Well, I think you have
25 raised a really good issue, and if the staff wants to

1 respond, that's fine. Otherwise, it's fine with me to
2 kick that right off this list. Because it -- it
3 doesn't deal with signage. The question should be how
4 should we sign, however we resolve the question of
5 going across private property. And that is really
6 dealing with something totally different than a sign
7 policy.

8 MR. McQUISTON: I think that's a matter
9 that should not be on the signing policy, as well. If
10 you work -- let's deal with only federal lands. That
11 doesn't come up. BLM is not going to designate a
12 route across private property that they do not have an
13 easement for, so it's not going to happen. And if
14 there is an easement, their liability ends at the
15 fence. At the fence it's a civil matter, no different
16 than if Kern County puts a road across your property
17 and in that easement they have liability. If someone
18 does something on your property outside that easement,
19 it's a civil matter and there is a remedy.

20 MS. HANSEN: Linda Hansen.

21 This policy was not designed to deal with
22 all those questions that you are raising. This policy
23 merely is to talk about signing protocols on public
24 lands for publicly designated routes. So I would
25 suggest that if this is raising that many questions,

1 this line needs to come out of the policy.

2 MR. SCHILLER: I do have another
3 question on this page. Under "limited routes," at
4 least the way I interpret this section here, it seems
5 to me that limited routes are now defined as routes
6 that are closed to the public except in very limited
7 cases. Is that right?

8 Essentially -- I guess what bothers me is
9 that "limited" is a very distinct and well-defined
10 term in the California desert, a CDCA plan. And by
11 applying that in this situation, I think it's very
12 confusing because as I read this, this is for
13 administrative uses or other than what would be open
14 to the public.

15 MR. ELLIS: I wish we didn't use
16 "limited" because limited to me means a limit on the
17 use of an entire area. We talk about open areas,
18 limited areas, and this. And now we are applying the
19 word "limited" to a line, a route, not an area.

20 But what we do mean here is not just
21 administrative limitations, but seasonal limitations.
22 The one that comes to mind most strongly are closures
23 on open routes for, let's say, the lambing season for
24 big horn sheep where a route goes into a sensitive
25 area like that. I believe there are two or three

1 cases like that in the desert.

2 Signs are put up during -- let's say
3 whenever the lambing season is on, this route is
4 closed for this period of time for that purpose. So
5 that's generally what "limited" means. Usually for an
6 environmental reason for some period of time, a route
7 which is normally open and not restricted, is
8 restricted. And of course, there are the
9 administrative ones as well.

10 MR. SCHILLER: Maybe it should say
11 "seasonal."

12 MR. SMITH: Except -- I think that's why
13 it ended up as limited.

14 MR. THOMSEN: Greg Thomsen.

15 There are other types of limitations other
16 than just seasonality. For instance, it may be
17 limited so that no camping is allowed along a certain
18 stretch of routes, so there are a variety of different
19 types of limitations. Different types of vehicles
20 might be allowed on some routes and not on others. So
21 it is a general term covering a variety of issues.

22 MS. HANSEN: Linda Hansen.

23 Again, this policy or process, protocol,
24 whatever we want to call this document, again is
25 merely trying to define how we are going to note these

1 on the ground for people and the decision about
2 whether it's limited, closed or open is not made in
3 this policy nor is it designed to be made here. So
4 these terms, however, have legal meaning, open, closed
5 and limited to the agency. Those designations as we
6 have already talked about are done in the land-use
7 plan.

8 This is just a way that is hopefully going
9 to be somewhat consistent for the public so that when
10 they are out on the ground, they know how to identify
11 that as that particular kind of route. So again, I
12 don't want to get too hung up on the terminology here
13 as far as closed, limited or open. There are a
14 variety of reasons why a route might be limited. We
15 will try to identify that. I think that's the process
16 we are trying to go through here on the ground for the
17 public. And where we can, we will identify the
18 purpose for that limitation, just so that people know
19 when they were out there what that means.

20 So I don't want to get too hung up in the
21 idea of the actual designation. This is, again, a
22 policy to help us be consistent in identifying those
23 on the ground.

24 MR. BROWN: Was there any intent to
25 identify four-wheel drive roads or roads that would be

1 accessible only in four-wheel drive so that people
2 wouldn't get high-centered or whatever, just cruising
3 around?

4 MR. SMITH: Yes, I think we will get to
5 that. But, yes, that will be part of the signage.
6 The level of difficulty will definitely be out there.
7 And there was a lot of discussion about that, too,
8 before we came to a consensus, yes. Some of the
9 discussion was, well, do you assume any liability by
10 doing that, for example. And we all, I think, came to
11 the conclusion that it was really important to let the
12 public know the best you could what type of a road it
13 was going to be in terms of difficulty. Okay, to draw
14 a line on -- pardon me. Mr. Presch.

15 MR. PRESCH: Bill Presch.

16 I would suggest, then, that if this is
17 going to be a policy statement and it's going to be a
18 piece of paper that is passed out to other parts of
19 the BLM, that this part that we are discussing, open,
20 limited and closed routes be completely removed and
21 rewritten so that it talks about signage, not opening
22 routes, limited routes or closed routes. That way we
23 get away from this discussion.

24 If this document is about signage, then
25 let's keep it to signage. And all of these three can

1 be rewritten and I think put down into a small
2 paragraph indicating what kind of signs are going to
3 be on roads, period. That's all this is about.

4 MR. SMITH: Bill, would this address
5 your concern, if like each of these four sections,
6 like the first one, open routes, if it said signage
7 for open routes?

8 MR. PRESCH: I would leave the part
9 about "open" out, because "open" implies that there is
10 closed or limited. So you just want to talk about
11 signage on roads. There will be signage to identify
12 routes, names, numbers. There will be -- you don't
13 even have to talk about secondary routes. You are
14 talking about signage. You will not sign washes.
15 Routes will have names. Kiosks will have some rules.
16 Some routes will have signs that indicate that they
17 are limited due to seasonal or other activities,
18 period.

19 So that you get away from this whole
20 feeling because if the public looks at that and what
21 is a limited route, what is a closed route? And we
22 are talking about the person that goes into the field
23 for the first time, as Bob was indicating, who just
24 wants to come out and have a picnic, they are going to
25 get all confused.

1 MR. ELLIS: I think you have a really
2 good point with respect to public information. This
3 is not a useful document. At this point, though, this
4 is a draft technical document for BLM and sort of
5 technically interested public to look at.

6 CHAIRMAN KEMPER: Bob, your mike is not
7 working, or you are not talking close enough into it.

8 MR. ELLIS: Yeah, that's better.
9 Anyway, I consider this a technical document. I
10 consider it the responsibility of the BLM to totally
11 rewrite this -- portions of this that might be
12 necessary for the education of the public, but that's
13 up to them.

14 MS. HANSEN: I guess I would ask the
15 counsel to look at the first page to address the
16 purpose of this document, which is the first thing
17 that we talk about. And the purpose is stated, "Is to
18 provide the CDD route signing strategy guidance for
19 identification and numbering of approved routes of
20 travel in the California Desert District."

21 Does that not address what the purpose of
22 this is for you, Bill, or others? Do we need to
23 clarify that statement? If we do, I think rather than
24 rewriting everything that's in here, perhaps stating
25 maybe better up front what the purpose of this is

1 would be the best thing to do.

2 MR. RISTER: For Bill's information, the
3 BLM has routes designated in the California Desert
4 Conservation area on their maps. And for years they
5 have been calling routes "open, limited or closed."
6 So the public is used to those terms.

7 And what this signage policy was to do was
8 to kind of encapsulate what's been on-the-field
9 practices in a format that the BLM can administer
10 uniformly and the public can understand. So basically
11 they are using old terms, existing designations for
12 roads, and letting the public know what those are and
13 why.

14 MR. SMITH: This is an interesting
15 discussion. And the second sentence of the first
16 paragraph on the first page, I put a big green
17 question mark, because I'm thinking that really should
18 be deleted because it says "The goal of the route
19 signage strategy is to provide a network of routes."
20 And that's not the goal. The goal is to provide a
21 signing protocol.

22 MS. HANSEN: I agree.

23 MR. SMITH: So we are sort of looking at
24 the document now and would remove that second sentence
25 and would remove the provision for easements on the

1 second page.

2 MR. SCHILLER: I have a comment,
3 referring to the first paragraph of the first page.

4 CHAIRMAN KEMPER: Ron, state your name,
5 please.

6 MR. SCHILLER: Ron Schiller.

7 If you read the purpose, it says, "To
8 provide CDD route signing survey guidance for
9 identification and numbering of approved routes of
10 travel in California Desert District. The goal of the
11 route signing strategy is to provide a reasonable
12 network of routes of travel which meet the needs of
13 all desert users."

14 Nowhere in this document is the term "road"
15 used. The only term identifying anything here is the
16 term "route," and it appears to apply to all desert
17 users. The only time "motor vehicle" is referred to
18 at all in this whole thing is on the very last page
19 where it says "optional content items as necessary or
20 appropriate." And the next-to-the-last item, it says,
21 "Technical level of route, vehicle restrictions,
22 vehicle clearance, four-wheel drive, motorcycle, et
23 cetera."

24 So to anyone reading this, it would appear
25 we are talking about all desert users as it states in

1 the first paragraph and not just motorized users,
2 which to me would apply to equestrian, motorized,
3 nonmotorized and hikers and everyone else.

4 MR. ELLIS: Sentence two is gone.
5 However, your point I think maybe could be
6 incorporated by saying "The numbering of approved
7 motorized routes of travel" in that first sentence,
8 because I agree with you. We are not talking hiking
9 trails; and if there are special horse trails that are
10 not motorized, we are not talking about those.

11 MR. SMITH: I'm not hearing any
12 objection to that.

13 CHAIRMAN KEMPER: I'm not sure, was your
14 point that you wanted the word "road" used?

15 MR. SCHILLER: If that's what we are
16 talking about, rather than beating around the bush.
17 We are not patrolling anybody but roads, and not all
18 desert users and motorized vehicles.

19 MR. SMITH: So I have got a third
20 suggested change; namely, on the second line of the
21 purpose paragraph, "approved motorized routes of
22 travel." Yes, Ron.

23 MR. DENNER: Is it possible that any of
24 these routes that we are defining are really for
25 two-wheeled vehicles like motorcycle trails, so it

1 would cause a problem calling them roads?

2 MR. SMITH: Right. I think routes is
3 the preferred term. And the one that is in use now,
4 as Randy pointed out.

5 CHAIRMAN KEMPER: Ron Kemper. Do we
6 have something that identifies or explains what route
7 means? A route can be a two-wheel track or one-wheel
8 track?

9 MR. DENNER: Unicycle.

10 MR. ELLIS: Ron, I think the document is
11 applying to whatever is on the map whenever that map
12 exists on a designated route of travel in the desert,
13 whether that route of travel is a narrow one or a wide
14 one or a county road. It's a designated route of
15 travel.

16 MR. SMITH: Any further thoughts? Okay,
17 let's go to the next matter, and we can always come
18 back if people have afterthoughts. And that's the
19 route-naming policy. Where possible --

20 MR. DENNER: Excuse me, before you go
21 on, the question came up of adding the word
22 "motorized." That may help Ron's problem a little
23 bit, because motorcycle trails, ATV trails, Jeep
24 trails are all motorized.

25 MR. SMITH: I stuck that in here. I

1 guess this is our working draft here.

2 Primary routes, where possible, we will
3 want to see a common name there because that provides
4 an interpretive function for the desert and I think
5 would improve the respect as well as the understanding
6 of people as to where the main roads are.

7 This could be an interesting process, and
8 this signage policy is not designed to really deal at
9 any great length in the process. But the public --
10 it's hoped that the public will be deeply involved in
11 this and that the route names will be based on natural
12 features, historic events, people. That a lot of
13 these routes have common names being used now that
14 those would be continued on. And that they would be
15 displayed on the signs and in the maps.

16 The route numbering policy, I don't think
17 this was anything that I had any particular expertise
18 in. I think we were really listening to what the BLM
19 staff people thought might be best, but they have come
20 up with a six-digit system. The first field would be
21 an alpha field -- seven digits -- and the second to be
22 four numbers. The alpha field is designed to be three
23 letters that might refer to some geographic area or
24 something like that where eventually it would be in
25 some sort of a common use. Can you think of any good

1 examples, Bob?

2 MR. ELLIS: Well, the alphas are
3 actually listed in the back here. They have to do
4 with particular areas in the desert. Most likely --
5 mostly associated with either the district office or
6 some subset of routes within the district.

7 Certain areas in the desert already are
8 using a two- or three-character identifier up front.
9 And those were derived -- certain areas in the desert
10 are already using two or three alpha characters to
11 identify routes, so we just let them go with that.

12 I believe whether it's like Fremont Valley,
13 many of you have seen these characters when you are
14 reviewing proposed designated routes. That's what the
15 three characters are.

16 The four numbers, I think at some point
17 they wanted six numbers. We at least cut them down to
18 four. For me, I can't remember more than one or two
19 numbers when I am going out there. But they felt they
20 needed at least four digits after the alpha to
21 identify routes within an area. So that's a tough one
22 for me. I don't think the average number can hold
23 onto four numbers after three or four turns in the
24 road, but that's where we are at. We have three or
25 four digits, so we have to let them go with that.

1 CHAIRMAN KEMPER: Do the numbers signify
2 anything, like whether it's a four-wheel-drive road or
3 two-wheel-drive road.

4 MR. SMITH: No. There are so many roads
5 out there, so many routes out there that it's just
6 designed to bring some order out of chaos.

7 MR. PRESCH: It's a safety feature.

8 MR. SMITH: Yes, and an interpretative
9 feature.

10 MR. ELLIS: Some of the areas have had
11 some of the numbers assigned in the last year or so.
12 Based on the current inventory, some of the numbers
13 are way old numbers that have been on the DAG for
14 quite a while. The numbers are going to be distinct
15 enough so that within the database that the agency
16 has, if somebody says, "I'm on route blah-blah-blah,"
17 then we know exactly where they are and at least where
18 to start looking for them, if that's a problem.

19 MR. SMITH: To put this in perspective,
20 the personnel that will be working on this, this
21 process is now known now to the Desert Managers' Group
22 because there are surrounding areas and to the extent
23 possible, this will be coordinated with surrounding
24 areas, like where a route will go from the desert area
25 up to Lake Isabella, for example.

1 MR. BROWN: You indicated all the
2 primary routes would be named. Are they also
3 numbered, as well?

4 MR. SMITH: Yes, they are.

5 MR. BROWN: So all primary routes will
6 be named? There will be thousands of names?

7 MR. SMITH: It may not work out all the
8 primary routes are named. The public will be involved
9 in it, and this will be management decisions made by
10 the BLM staff.

11 MR. McQUISTON: Just a comment. The
12 statement, going back to page or so, everything is
13 based on BLM-produced maps. When we create this
14 policy, we should be sure that our BLM-produced maps
15 capture with an extremely high level of confidence the
16 routes that are out there. Otherwise, you are going
17 to come up on something that's not signed, and then
18 you would have to work off of an assumption. And that
19 assumption is, is this open or is this closed?

20 So in adopting whatever this signage policy
21 may be, I think it presupposes that we have very
22 accurate maps on which the signage is based.

23 MR. SMITH: Of course, the BLM maps, at
24 least for a while, are not the ones that are in common
25 use. And Steve Razo, I know is planning and I guess

1 has preliminary communication with the Army and so
2 forth, so that those maps will get the data necessary
3 to be updated on there.

4 Any further thoughts? It's a huge
5 number -- I don't have the number, but there are a
6 huge number of signs involved in this. And to look at
7 the staff personnel that were in this meeting, their
8 eyes got really kind of round in terms of how they
9 were going to pull this off. That's why you see -- I
10 think the preferred types of signs will be the ones
11 that wouldn't be easily ripped off. And those would
12 be steel posts which would be 4-inches by 4-inches by
13 4-feet set in concrete. They really have to have the
14 ability to use the carsonite signs. Some of these
15 routes are going to have to get something out there
16 quickly.

17 And I don't know if any of the field
18 managers would like to comment on what they are facing
19 with this or not.

20 MR. READ: It would be a lot of money to
21 try to find 4-inch by 4-inch by 4-foot steel posts for
22 all the routes and continually sign them every couple
23 miles so people know the road they are on. Steel is
24 not cheap. So I don't know if there is a grant being
25 proposed that this would come from. I'm not sure what

1 the funding mechanism would be, but the first question
2 I thought of as I saw this was how are we going to pay
3 this?

4 CHAIRMAN KEMPER: Paul, I have to tell
5 you, I manage a lot of private property. And when you
6 start talking about square steel, 4-inches by 4-inches
7 in the desert, it has a lot of value for scrap. The
8 one thing that we don't find dumped on our property is
9 steal. Couches, that sort of thing. But I think what
10 you would find is that those posts would disappear
11 almost as fast as you put them in the ground.

12 MR. BETTERLY: What about a washing
13 machine?

14 MR. ELLIS: The model we used to come up
15 with the proposal -- we were really talking about the
16 primary network. We didn't talk about what would be
17 on the secondary network. The primary network, if you
18 go into Eastern Riverside County and start looking at
19 the project they have done over the last few years,
20 which is to sign their major routes with these 4-by-4
21 posts and give the public guidance, it's quite good.

22 I don't know if you have been down there,
23 but they have these nice kiosks that says here's the
24 major route. You start following along those major
25 routes, and periodically you do see the 4-by-4 posts

1 with the name of the route on it -- Augustine Pass.

2 And it's very helpful in guiding people through the
3 desert that don't have a whole lot of information.

4 So I think that's the goal here. The ones
5 down there I haven't seen ripped off too much. They
6 look pretty good out there. So I think we need to get
7 a start on the primary with this thing and see where
8 it goes. Obviously, nothing like this is going to be
9 done in the short range, but this is a way to start
10 beginning.

11 CHAIRMAN KEMPER: What I can share with
12 you, Bob, is that the economic areas for different
13 areas of Southern California are a lot different. And
14 I think Tim, as being the area manager up there, can
15 address that. But we do hold a lot of property
16 outside of Barstow, and I can tell you that there are
17 people that full-time make their living scrapping
18 steel. And they will work all day long for \$35 or
19 \$40. And they will take steel wherever they can find
20 it. Is that your impression as well?

21 MR. READ: I know that the military
22 bases have a tremendous problem with scrappers, which
23 is the same thing. I mean, trying to come in and find
24 C-4 as well as steel. Anything that's recyclable and
25 that they can get some money out of it.

1 MR. McQUISTON: I think the broader
2 issue here is signage. Specifications for the sign, I
3 don't think we need to go to that level of detail.
4 But the basic premise of what you are saying we need
5 to -- I think is the ball we need to keep our focus on
6 rather than try to determine what materials and put
7 that in a policy. We may be missing the mark.

8 MR. SMITH: So I'm looking around to see
9 how people are reacting to that. I was unaware of the
10 nature and extent of that sort of off-highway
11 business. If we looked at this, then, we would be --
12 we would not be making a recommendation on the sign
13 design policy.

14 MR. ELLIS: The material.

15 MR. SMITH: Steel posts and brown
16 Fiberglas carsonite. That may change.

17 MR. McQUISTON: My comments would be if
18 you want something that's 4 inch by 4 inch, that's
19 fine, but to specify whether it's steel or carbonite
20 or some other material or if there is -- it's the sign
21 itself. The specifications should be pretty much
22 left, I think, to the discretion of the agency as long
23 as we get -- as long as we get the concurrence on what
24 it is we are trying to do.

25 We are trying to identify a route, and a

1 lot of our discussion seems to be focused on, you
2 know, detail that's outside of the scope of policy.
3 And I will echo -- it's only about been four or five
4 years ago that we had a huge, huge, problem when they
5 opened up Superior Valley Bombing Range on the
6 military installation at China Lake. There are no
7 explosives. They are all inert, but a Mark 76 is 105
8 pounds of pure aluminum. And at the end of the day,
9 it would not be uncommon to have several hundred of
10 those dropped during the day. And at night, you can't
11 believe what was going on. People coming onto the
12 base at dark and making a good living before they got
13 that stopped.

14 MR. SMITH: What we did is deleted the
15 word steel where it appeared there. Then we should
16 spend a little bit on the recommended sign content
17 policy, which is on the next page. The standard
18 content item for a route sign would be a BLM Logo. A
19 CDCA logo, if one is developed -- I think somebody
20 somewhere is working on that, but I don't have any
21 information on that. Certainly the route name or
22 number.

23 And then optional content items might be a
24 sensitive area logo, for example, if it was a desert
25 tortoise habitat; an OHV logo; a Back Country

1 Discovery Trail logo; directional arrows; and this was
2 raised earlier, indications of the technical level of
3 the route. Vehicle clearance might be a problem,
4 four-wheel drive, motorcycle. What is UTM?

5 MR. ELLIS: I do not know what UTM is
6 doing on there because, of course, a UTM number is
7 quite a bit of numbers. And we already have a lot on
8 the sign. UTMs might be useful on a map if they could
9 be identified in some way.

10 MR. BROWN: The sign would have to be 10
11 feet high.

12 MR. ELLIS: It's possible you could have
13 a very small sticker. Maybe the intent here was that
14 for maintenance purposes we stick on the sign a small
15 UTM sticker that clearly identifies where it is. And
16 for maintenance services, the sign that's supposed to
17 be here is now not here and this is the true
18 identifier of the sign. If that's the purpose of the
19 UTM, that's very useful. It isn't a public item, but
20 it's a BLM maintenance item. Universal Transverse
21 Mercator. What it is is an alternative to latitude
22 and longitude for identifying a very exact location.
23 And it connects with people's GPS units. Most people
24 use latitude and longitude on GPS, but other people
25 use this UTM system. Most agencies use UTMs.

1 MR. BETTERLY: The sign is going to be
2 as big as that screen behind you.

3 MR. PRESCH: It could be put on the back
4 section.

5 MR. SMITH: The next section is the
6 recommended installation policy, how route signs will
7 be placed at major intersections, and the location and
8 spacing of additional signs to be determined by the
9 BLM. And that almost has to be based upon what's on
10 the ground.

11 Then there was a recommendation for sign
12 tracking maintenance policy with a form No. 9130-4
13 will be used to track signs. I don't know that we
14 need to get involved in how the BLM is going to
15 administer, unless I here someone screaming, scratch
16 that. So, any further comment?

17 MR. THOMSEN: Greg Thomsen. I think the
18 reason some of these technical things are on here,
19 this is an internal document. It's really not
20 designed for public communication. The purpose of
21 that form number is to try to get some standardization
22 for the database from our own staff. I believe Bob
23 was saying whatever we actually use to communicate to
24 the public will be a lot simpler and condensed than
25 this.

1 MR. SMITH: What we are really doing
2 here is what the DAC's recommendation is to the BLM.

3 CHAIRMAN KEMPER: Is there anybody here
4 from the Needles field office or anybody that's
5 familiar with the Kingston route of travel, Kingston
6 Wash?

7 I just wanted to make the committee aware
8 that they did come up with a way to put signage up on
9 the Kingston Wash by using a concrete form and
10 actually it's real attractive. It's been there over a
11 year and gotten hardly any abuse and, I think, does a
12 pretty nice job.

13 MR. ELLIS: I was part of the group that
14 put that in. That was a Public Lands Day Service
15 Project effort along with a grant or something that
16 the Needles office got to put those in. That was a
17 lot of work. You had to dig big holes, and it's a
18 little more work than I think a vertical post
19 installation project. I think that's a special case
20 because what we wanted to do there is to direct people
21 up a wash and try to contain them as much as possible
22 in that wash, and to use that wash corridor for larger
23 events, occasionally. It's a sensitive area, so the
24 BLM wanted to put quite a bit of effort to do a good
25 job to try to get people to really conform to the area

1 when they use that area. So it's quite a bit of work,
2 a little more work than you want to do in a larger
3 area.

4 CHAIRMAN KEMPER: I didn't watch you
5 guys install it. I didn't realize there was a lot of
6 work there. It looked like one bagger, maybe
7 bag-and-a-half mix that somebody could have done from
8 the back of a pickup truck. So you guys actually
9 excavated a hole. It appeared to me that the Monument
10 itself was going to be heavy enough, 150 pounds or so,
11 that a lot of people would leave them alone. But it
12 sounds like you did a little more than that.

13 MR. SMITH: Okay, yes, Ron.

14 MR. SCHILLER: I would just like to make
15 a couple comments. Yesterday, when you introduced
16 yourself, Bob, you talked about how you enjoyed the
17 discovery and the adventure and the solitude of the
18 areas you visit. The absence of man-made and visual
19 intrusions is very important to a lot of people,
20 whether they are referred to or maybe are required to
21 use a vehicle to the access areas. That's very
22 important to them as well. And I'm very afraid of
23 over signing.

24 We have a place south of Ridgecrest in the
25 Rand Mountains. You may be very familiar with it.

1 The folks around Ridgecrest lovingly refer to that
2 area as the Carsonite National Forest, and that's the
3 truth.

4 As we talk about safety today, GPS units
5 are very common today. Almost everybody has them.
6 They are installing them on automobiles. I wouldn't
7 be surprised if the off-road vehicles have them and
8 cell phones and other safety devices. And I don't
9 want to see the view shed and those things just ruined
10 by that over signing. And that's my concern.

11 MR. DENNER: I guess I'm a little
12 concerned here that we are putting the cart before the
13 horse when we start taking about signage. It seems
14 like that presupposes route designation, which sort of
15 has been done. But I think route designation
16 presupposes route identification.

17 And I passed out a letter that Ed Waldheim,
18 the president of the California Off-road Vehicle
19 Association sent regarding route designation in the
20 WEMO area. And I want to read two of his comments out
21 of his letter. I think it pretty much describes the
22 situation in terms of route identification.

23 First under maps, he says, "Maps that are
24 provided are not reflective of what is on the ground.
25 Verification of routes was supposed to be done, but

1 when they ran out of money or time they just stopped.
2 They did not put routes on maps that the public can
3 read. The maps are completely different in every
4 aspect of what is on the ground. Availability of maps
5 is nonexistent. You have to know somebody from the
6 BLM and then beg to get a copy. Otherwise, they say
7 go to the disk. I defy you or anyone to go to the
8 disk and make any sense out of what they are looking
9 at, much less figure out what they are doing with the
10 routes in the desert. We are talking about routes
11 that have been used for over 100 years."

12 Under the heading of designations, he said,
13 "Designations have been done in a room without regard
14 to the use in the field as to what is the purpose of
15 the route in the first place and who is using it.
16 They have come up with only a classroom hypothetical
17 position and nothing scientific that would hold up in
18 court."

19 Now, Ed has been very active in this route
20 designation and it's too bad Jeri Ferguson had to
21 leave the Council because she was working along with
22 Ed and probably had the most information about route
23 designation. But I have been fairly involved with it
24 with those folks, and I know they have had a very,
25 very difficult time trying to actually identify routes

1 on the ground.

2 So that's going to be a challenge for the
3 BLM to mark routes with whatever signs they come up
4 with that have not been adequately defined, and that's
5 my concern.

6 MR. ARROW-WEED: I want to ask
7 Mr. Thomsen, we never discussed anything before I came
8 to this meeting. Now, this one I'm not really
9 familiar with it. But what I am listening to it, they
10 are going to define or explain or interpret the
11 meaning of some of these words that we are going back
12 and forth with. But you and I have never talked about
13 some of these routes that we should be talking about.
14 Has anyone ever talked about it in Imperial Valley, a
15 representative?

16 MR. THOMSEN: Greg Thomsen. One of the
17 route designation efforts that was completed out of
18 the El Centro office was for the floor of the Imperial
19 Valley, west of the sand dunes, which is called the
20 Western Colorado Route of Travel Area. There was a
21 public process. With all these processes, there have
22 been some questions as to adequacies of inventories
23 and whatnot.

24 But there was a public process. We do work
25 with the local agencies, county, border patrol and

1 others, regarding the route efforts going to be signed
2 for that effort. Whatever we do with this, this is
3 going to be based on priorities.

4 Ron mentioned that the Rands is heavily
5 signed because it's a priority area that needs a fair
6 amount of enforcement and clarity. Down our way, the
7 Yuva Basin is a similar situation. A lot of other
8 areas, it's going to be a long time before they
9 receive all that much signing, and maybe they won't
10 need it because of the level of use or issues.

11 But anyway, getting back to your question,
12 Preston. For the area west of the Dunes, we just
13 completed that process. An area you are probably
14 quite interested in is east of the Sand Dunes up
15 towards Indian Pass and the Chocolates. That's an
16 area that was addressed in the Northeast Colorado
17 Plan. It has not been signed much to this point, and
18 certainly we would be interested in talking with the
19 tribe or others as far as priorities and how to
20 approach that area.

21 MR. ARROW-WEED: I don't think the
22 representative has ever been here to talk about this.
23 Also the Yuva area, it's very important. It's more
24 sensitive now than it ever has been. There are other
25 areas along the Salton Sea, certain little places out

1 there, there are many archeological sites. There
2 could be a lot more we are not aware of. And there
3 are certain roads that I think it requires four-wheel
4 drive to get in there. I wouldn't recommend walking
5 in there or riding a bicycle or even a motorcycle in
6 some parts. I have been through there.

7 But I don't think that Imperial Valley, no
8 one has ever discussed the certain areas, sensitive
9 areas or other areas, southern roads because people
10 start making a road in one weekend, another fellow,
11 and before you know it, it becomes a route. So I
12 think some of those things have to be posted in such a
13 way that they won't start. Do not start a route.

14 But I think that we should discuss it more.
15 And I think if the BLM here, Linda Hansen says she
16 will define or interpret some of the meanings of those
17 things. And whoever met on this, I'm sure they had
18 good intentions. I'm not contradicting or anything
19 that -- with how they looked at this. I think it's a
20 good idea. But I'm confident that those who looked at
21 this knew what they were talking about. Thank you.

22 CHAIRMAN KEMPER: Linda.

23 MS. HANSEN: I think the philosophy that
24 started us out on trying to define a process or a
25 protocol for this was multiple in its need. One was

1 to help identify for the public who are already out
2 there the routes that are available for them to
3 utilize.

4 Another part of it is to help them stay on
5 the routes that are identified for them to use so that
6 we don't have a proliferation of unauthorized or new
7 routes across areas going into sensitive areas where,
8 you know, perhaps vehicular use is not the best use or
9 can have an impact, and we don't want it to.

10 So the designations are done through the
11 land use planning process. They are discussed with
12 the public in that process to the extent that we know
13 that those routes exist. And as Greg has indicated,
14 there is always discussion about whether we got them
15 all or we didn't get them all or whether we have the
16 right ones or we don't have the right ones, and I
17 would imagine that's going to be a process of ongoing
18 discussion over some time.

19 But for right now, what we are trying to do
20 is get in place something that will be consistent for
21 us and for the public so that we can at least identify
22 on the ground those routes that are available that
23 people are wanting to use, so that they know where
24 they are, and if there are limitations, what those
25 limitations are. So it really is designed to be a

1 helpful tool for the public.

2 It's also there to help us for safety,
3 search and rescue issues, those kinds of things will
4 be offshoots of the signing of the routes. I would
5 agree with you, Ron, I don't like proliferation,
6 either, of route signs. So I think that the intent
7 here within each field office jurisdiction is that we
8 will have at least a consistent way of doing it and
9 marking them. There will have to be some
10 on-the-ground reasonableness about how much that needs
11 to be done and where that needs to happen on the
12 ground. That will be done on a local level. I think
13 that the naming will be done, hopefully, with the
14 locals.

15 And with -- in areas of cultural
16 sensitivity, Preston, I would hope we would be talking
17 with Indian tribes and others about those naming
18 protocols. So this is just to get us started and to
19 provide us some internal direction on how we want to
20 deal with a route network on the public land as far as
21 the signing of that network goes.

22 MR. ARROW-WEED: What I really meant was
23 using laymen's terms, some of these words, because not
24 everyone would understand and hoping that that would
25 be done so when the public goes through there, they

1 will understand what it means, laymen's terms rather
2 than BLM terms, words, nobody understands what it
3 means. And like policemen, police codes, nobody
4 understands them. The same thing, BLM has certain
5 words not everybody understands. Even I am having
6 problems, but I start catching on to them when they
7 are talking about. I caught on when you are talking,
8 so I think laymen's terms is what I am talking about.

9 And also to define it, to go in depth and
10 do it in laymen's terms so when they see a sign they
11 know what it is. And as for my area, there has never
12 been any representation from my tribe or anything.

13 So like I said, they just don't -- they
14 just never bothered. They never thought it could
15 happen, but I can see that it is important. We do
16 communicate with them and try to bring them in. And I
17 will make every effort to tell them that we should do
18 something, and we will think up a lot of names. Mine
19 will be first.

20 MR. PRESCH: I would like to agree with
21 what Greg said about the signage, and that being that
22 it's pretty much up to the local management and to the
23 use of the area as to how many signs are going to be
24 required in an area. But there is also the
25 possibility that after a given amount of time and

1 routes are clearly established, that some of the signs
2 could actually be taken down. If you have one every
3 mile, maybe in the future you only need one every two
4 miles or three miles. So you could actually remove
5 signs.

6 And as far as Roy, in terms of the routes
7 and if they are designated and which routes are which,
8 hey, we are doing something proactive. This is a
9 proactive instead of reactive move by BLM. We will
10 have a signage policy ready to go when the routes are
11 clearly decided.

12 MR. McQUISTON: I think you hit the key.
13 There are two issues that I am hearing here. One is
14 policy and one is process. Policy we are talking
15 about in terms of signage is great and I appreciate
16 the work on it.

17 But in terms of process, if you don't know
18 what route designation is before you start putting up
19 signs, you are not going to be educating anybody. The
20 policy part of this I think is good, but in terms of
21 process and implementation, they should be sequential.
22 First of all, you should find what the routes are,
23 accurately depicted, and then if you can do some of
24 those in parallel, fine, but if all we are doing is
25 talking about signage when we haven't determined what

1 route designation is going to be, we are not going to
2 be simplifying anything.

3 MR. ELLIS: We have got clearly a work
4 in progress here. Obviously, we don't even know yet
5 what we are mapping because you are right, there are
6 lawsuits, there is a lot of process to go through
7 before we determine where is a route, apart from
8 primary networks. Those are generally not too
9 controversial. They might be able to do work on that.
10 But the secondary stuff is up in the air. There is no
11 question about that.

12 It seems like there are several things that
13 are important here that we will have to monitor as we
14 go along. And the first and main one really is, can
15 the public understand where they are and what they are
16 supposed to do on the ground from this effort. So
17 what we probably are going to need to do is put some
18 out there and question a few people and find out, how
19 is it working?

20 Then the second thing is maps. We have got
21 to go forward and we've got to connect maps with this
22 stuff on the ground. And to my distress, I heard
23 recently that perhaps the BLM is about to reissue the
24 current DAG maps with all the existing routes, which
25 are -- some of which, you know, are no longer going to

1 be right, some of which have been wrong for years, and
2 have another round of incorrect information out there.
3 I'm concerned about that. I would rather that we went
4 ahead with this attempt to get informal, inexpensive
5 route information out there.

6 The next question we haven't really talked
7 about is what are the requirements of law enforcement
8 with respect to signage on the ground in terms of
9 sufficiency of telling people where they are so that
10 it's clear if they are in the wrong place and it's
11 appropriate to cite somebody, that that can be a valid
12 cite. I think that's part of discussions that we want
13 to have over the next year or so with law enforcement
14 people. And as some of these signs go out, are we
15 doing the right thing, are we telling the public, and
16 are we doing it in such a way that it's ultimately
17 enforceable, if the BLM chooses to do that.

18 So maps, law enforcement and public
19 understanding, those are the things we have to
20 obviously go forward with and find out if this policy
21 is hitting the right buttons and really works.

22 CHAIRMAN KEMPER: Can I ask a question
23 of Linda? Do you guys, as far as citing people for
24 being off a designated route or something -- I mean,
25 do these people go on and appeal their case at the

1 federal court or local court system if they believe
2 they are in the right and whoever the deciding party
3 is in the wrong? And do we have a different set of
4 rules on federal land as state land? I know it's a
5 constant problem for me if I am not properly posted
6 and I have a sign every 300 feet and it has the code
7 number on it, that I can't cite anybody for
8 trespassing or being on my property.

9 Are there different rules and regs for you
10 than there is for private?

11 MS. HANSEN: I would say yes and no.
12 I'm not the one to tell you specifically where. We
13 enforce the California Vehicle Code on federal land,
14 and we have then our own citation authority under our
15 designations and regs. Can they fight it? Yeah, they
16 go to the local magistrate.

17 CHAIRMAN KEMPER: They go to local court
18 and it has to do with California state law?

19 MS. HANSEN: Yes. Greg, do you want to
20 have anything to add to that?

21 MR. THOMSEN: When we sign an area, we
22 try and pick priority areas. And part of the strategy
23 is pulling the law enforcement staff in with the
24 recreation staff to make sure however we approach it,
25 it's enforceable. And the rangers are going to be

1 hesitant to go out and issue citations unless they can
2 stick.

3 So pulling law enforcement into the signing
4 is a key part of tackling the area. So whatever areas
5 are priority for signing should also be for patrol.
6 It sort of goes hand in hand.

7 CHAIRMAN KEMPER: I guess what my
8 question was is I know for private land, I have got to
9 put up a lot of signage to be in compliance. Is that
10 the case with you guys, as well? Or is a sign every
11 three or four miles good enough.

12 MR. READ: What we have done, Ron, is in
13 some cases we will take the magistrate, him or
14 herself, out with us to let them know what we are
15 doing to see if it would meet the standard that he or
16 she could enforce. The magistrate we are currently
17 using is on the Marine Corps base in Barstow. That's
18 a federal magistrate.

19 There are cases where if it's a blatant
20 violation, the rangers are able to cite for mandatory
21 appearance, so the person has to actually come in
22 front of a judge and explain what happened, why, and
23 so on.

24 There are others where it's not as blatant
25 and it be just been a bail forfeiture. But we do,

1 where it's controversial or where we think it might
2 be, we have actually had arrangements where the
3 magistrate has gone out with us to understand what we
4 are doing about signing, how knowledgeable a person
5 would be about the rules in the area, and that seems
6 to work fairly well for us.

7 But the whole point, the same as your
8 signing on the property, the person would have to know
9 that they have made a violation.

10 CHAIRMAN KEMPER: I guess where I was
11 getting at was forests of signs. And of course, it's
12 important that we all understand what the problems are
13 with really enforcing and ticketing, because I think
14 there is a group of people that say, "Hey, we just
15 don't have enough rangers out there giving enough
16 tickets."

17 But I think -- in order to give tickets,
18 you have enough signage, and once you have signage,
19 it's very obtrusive. And I think education is
20 probably a better way to get people to work properly
21 together.

22 MR. SMITH: There were two important
23 things that were done that are reflected in this
24 policy, one of which is this policy calls for all
25 secondary routes to be signed. And there was quite a

1 bit of dialogue and some area managers were uneasy
2 about a requirement to sign all secondary routes. By
3 consensus, it was felt that they should be signed in
4 order to carry out the public policies we have been
5 talking about.

6 The second thing this does, which I don't
7 know if we spent enough talking about here is that
8 with respect to areas that are being closed,
9 regardless of whether you agree with whether it's
10 closed or not, at least that decision has been made or
11 might even be under litigation. So if it's closed,
12 the consensus was to try and avoid from using closed
13 signs because they are repugnant to the public. So
14 those would be used only where there is an obvious
15 route or apparent route or where there is an unusual
16 sensitivity that needs to be dealt with.

17 And the primary plan that this plan
18 contemplates dealing with closed routes is to
19 rehabilitate them. That will take some time, a lot of
20 time, probably. But that's part of the philosophy of
21 the signage here. Ron.

22 MR. SCHILLER: I guess I have a question
23 for Linda on enforcement. In a situation where you
24 have a route on the ground illustrated on a map and
25 then you also have a sign, but there is a certain

1 element, radical element who opposes public access on
2 public land. By removing that sign, they in effect
3 close the road. So in this situation where it is now,
4 all routes have to be signed open or it's closed, I
5 guess does the map trump the absence of the sign or
6 how does that work?

7 MR. BETTERLY: That's another yes and
8 no.

9 CHAIRMAN KEMPER: I want to have Linda
10 Hansen answer that. I realize Ron's statement was
11 part of the stipulated interim agreement that all
12 routes are closed that aren't posted open, but that's
13 not the case today, is it?

14 MR. PRESCH: Not today.

15 CHAIRMAN KEMPER: Go ahead, Linda.

16 MS. HANSEN: I don't know that I have a
17 good answer for you, Ron. Obviously, there are people
18 who are removing signs out there. Does that mean
19 automatically that the route is closed? Not
20 necessarily.

21 I think that it really depends on the
22 situation in which the law enforcement officer finds
23 the person taking the activity. Removal of government
24 property from government land can be a citable
25 offense. Destruction of government property can be a

1 citable offense. Are we going to cite somebody for
2 removing the sign or are we going to cite somebody for
3 driving up an area? I think we need to apply sense,
4 common sense, in how we deal with some of this on the
5 ground.

6 The signing is to help us all. It's to
7 help those people who want to do the right thing out
8 there do the right thing out there. It's also to help
9 us be able to deal with those people who don't want to
10 do the right thing, I guess. But I think we just need
11 to apply common sense. And I think for most of the
12 rangers I know within the Desert District, that that's
13 exactly what they do. And in working with the county
14 sheriffs and in working with -- educating the public
15 about the use of public lands and working with the
16 magistrates to help them understand what we face when
17 we deal with citations and the enforcement of the use
18 of public lands is where we are making and should make
19 the best way for things to go.

20 So I don't have a yes-or-no answer for you.
21 I guess I just want to say that yes, we need signing
22 to help us in the enforcement of the use of public
23 lands. And we do use it that way. But we also want
24 to use it as a way of educating our users out there
25 and being in partnership with those users so we are

1 not caught all the time always having to enforce it
2 but can use it as an educational tool, as well.

3 CHAIRMAN KEMPER: Roy Denner.

4 MR. DENNER: I think we need an answer
5 to a very simple question that Ron Schiller just
6 asked. And he asked, does the map trump the signs?
7 And it absolutely better, because if it doesn't, every
8 single route in the CDCA is closed right now. The BLM
9 has already said it's going to take them a long time
10 before they could get around to properly signing these
11 routes. And you are going to have a riot when we
12 announce that as of this time, all routes are closed
13 at this time.

14 CHAIRMAN KEMPER: Linda Hansen.

15 MS. HANSEN: Are you making that
16 announcement?

17 MR. DENNER: Depends on your answer.

18 MS. HANSEN: I think our attempt here
19 is, yes, to make the maps be the word. They are the
20 ones -- that's what we are trying to use to indicate
21 where the routes are. So, yes. The map trumps the
22 sign on the ground.

23 MR. DENNER: Good.

24 MS. HANSEN: Does that help?

25 CHAIRMAN KEMPER: Paul, I'm going to

1 attempt to move us along.

2 Was it your intent to have an action item
3 at this point? The reason I want to move us on I have
4 been notified by the people who are going to present
5 the Western Mojave Plan that they are running short on
6 time and need to leave.

7 MR. SMITH: Let's get some business
8 done. The way I see it now, this awaits a motion:
9 That the motion would, I believe -- and we are looking
10 for consensus -- on page 1, the second line in the
11 purpose paragraph, it would be the numbering of
12 approved motorized routes.

13 The second sentence, beginning with "the
14 goal" and ending with "all desert users" would be
15 deleted.

16 Going to page 2, the last bullet under
17 "open routes," "would set easements across private
18 lands," that will be deleted.

19 Going to page 3, under "steel posts," we
20 would remove the word "steel" where it appears three
21 times.

22 CHAIRMAN KEMPER: I'm sorry, where is
23 that?

24 MR. SMITH: This is on page 3, roughly
25 12 to 14 lines up. Paragraph 1, "steel posts," it

1 would just say "posts" and within the first paragraph,
2 the word steel appears twice. That would be deleted.

3 On the fourth page, "the recommended sign
4 tracking maintenance policy provision" at the end
5 would be deleted.

6 Above that where it says "UTM," that would
7 be deleted. I would say the only other thing as to
8 whether or not that we want to recommend as a policy
9 matter, should we be getting into the detail on the
10 last page of alpha identifiers? I think personally we
11 should not. That that's a staff matter. Am I
12 correct? If that's the case, then we are ready, I
13 think, Ron, for a motion.

14 CHAIRMAN KEMPER: Paul, I think I had
15 scratched off the "recommended sign tracking
16 maintenance policy" was simply something that BLM
17 would come up and wouldn't be a part of the TRT. Is
18 that something we had scratched off earlier?

19 MR. SMITH: Yes. So we need a motion.

20 CHAIRMAN KEMPER: The chair will
21 entertain a motion if somebody would care to make one.

22 MR. PRESCH: So moved.

23 CHAIRMAN KEMPER: For the record, we
24 actually need a motion, I think, that we accept the
25 TRT's recommendations with the changes so identified.

1 MR. BETTERLY: I will second his motion.

2 CHAIRMAN KEMPER: We have a first and
3 second. It's open for discussion. Any discussion?
4 John McQuiston.

5 MR. McQUISTON: Just a question. Was it
6 your intent to open it up for public comment once the
7 discussion ends here?

8 CHAIRMAN KEMPER: Yes, it was. Hearing
9 no discussion, we will take public comment.

10 If you will stand and identify yourself for
11 the record.

12 MR. MATTHEWS: Dave Matthews, Ridgecrest
13 general public.

14 Is this a recommended usage on the back
15 page, this signage? Because the reason I'm wondering
16 is there is a paragraph in here I notice that says it
17 could be vertical or horizontal signage.

18 MR. BETTERLY: I think this was just a
19 model, more or less, to show what was in place in some
20 areas.

21 MR. MATTHEWS: Because there are some
22 shortcomings on this particular usage. Now, I don't
23 know if that's -- if you want to bring it up here now
24 or whether that would be something that would be
25 worked out. I can do it either way.

1 CHAIRMAN KEMPER: Mr. Matthews, I think
2 it was decided that the actual designs of the sign
3 would come in after input from the area managers and
4 for materials available and what would work. What we
5 are looking at is just the policy itself.

6 MR. MATTHEWS: Okay, thank you.

7 CHAIRMAN KEMPER: Yes, sir. Will you
8 stand and identify yourself?

9 MR. BANIS: Randy Banis, B-a-n-i-s,
10 deathvalley.com, resident of Leona Valley, the
11 California Desert District, and the Ridgecrest field
12 office.

13 The policy has come a long way since Baker
14 and very nice job. It has come a long way and
15 congratulations, some very nice parts of it. The
16 kiosks at the entrance, the key areas are a big help
17 to travelers, including myself.

18 The use of the words "primary" and
19 "secondary" I think is accurate in reflecting what's
20 on the ground.

21 I applaud the use of route numbers as
22 currently as is being used across the Desert District.

23 I also applaud the use of the sensitive
24 area logo. I think that's a very inventive point to
25 have included in this policy.

1 If I may, I have other suggestions. I'm a
2 bullet point kind of guy, so it won't last long, I
3 promise.

4 I hear that this is being driven greatly in
5 part to assist Joe and Sally SUV, the normal ordinary
6 person wanting to enjoy a day in the desert. It isn't
7 geared to the desert denizens and the frequent and
8 regular users of the desert. With that in mind, the
9 issue of signing only open roads as opposed to closed
10 signs is different than what Joe and Sally are
11 experiencing on ordinary highways and roads.
12 Generally, you make that right turn unless it says "no
13 right turn allowed." So as much as we hate to see red
14 closed signs, there is no ambivalence, no ambiguity.
15 It is closed, and I think that would translate just as
16 well for the casual users.

17 I also feel that to be careful not to over-
18 interpret or over sign areas for the casual user.
19 Also note that the casual users in reality may be
20 first and foremost drawn to areas such as national
21 parks, county parks, state parks. And these places
22 are generally well-interpreted, well-signed and
23 provide for a great introductory experience to the
24 California desert.

25 Not to take an elitist standpoint that the

1 back country should be reserved for the most hardy,
2 but that the BLM desert back country can open up
3 people to experiences that they weren't in for when
4 they turned their car onto that dirt road.

5 I don't believe we should be creating
6 names. If a name really does exist -- I may not know
7 the name and others may not know but some folks in the
8 community will. That's very nice and legitimate.
9 Hart Road is the Hart Road, and everyone uses Hart
10 Road, even though it's not even written on any maps.
11 But I don't think we should be going about just simply
12 making up names that don't exist for places.
13 Truthfully, places that have no names have no names
14 perhaps for a reason.

15 Also in the terms of guiding people through
16 the desert, may I just echo Ron's statement about the
17 era of GPS that is approaching, and cars have these
18 standard, and the maps are much more advanced. I
19 think there is less need for signs to tell you where
20 you are, but to tell you where you are going.

21 A comment against rehabbing every single
22 route. Many of these routes still have great value to
23 mountain bikes, to foot hikers, family hikers, not
24 those who go straight across the desert terrain, but
25 would prefer to follow a road or trail such as into

1 Steam Well or some of those common sites.

2 Also, the equestrians I think would, by and
3 large -- may have value to those routes. Please be
4 careful in the rehabbing of all routes
5 indiscriminately. They do have values, perhaps,
6 though, maybe not to a motor vehicle, but to other
7 parts of the desert user community.

8 The issue of designating 4-by-4 versus
9 other vehicle, and again, I hate to sound like an
10 elitist, but really, when you are turning off onto an
11 unmaintained dirt road, you really should have
12 4-wheel-drive. You don't know what is happening that
13 day. If there is going to be signage as to
14 4-wheel-drive versus other, that should be on any road
15 not maintained by the county or by the government. A
16 maintained road, we all know 2-wheel-drive cars can go
17 on there safely and have been on there for decades and
18 for years.

19 We all know experienced drivers can take a
20 2-wheel-drive places inexperienced drivers can't take
21 the most hardily equipped 4-wheel-drive. We all know
22 some people can take a 2-wheel-drive anywhere. But
23 for inviting Joe and Mary SUV off to a back country
24 road doesn't take long before the sand gets knee deep.

25 And may I just say in the decade that I

1 have been traveling the California desert, most of the
2 folks that I have rendered assistance to have been 2-
3 wheeled vehicles only a dozen or so feet off a
4 maintained dirt road.

5 Primary routes I believe should have a
6 lower route number. I see there was an issue of
7 designating route numbers on a somewhat first-come,
8 first-served basis. For secondary routes, that
9 certainly makes sense. The primary routes, in my
10 belief, in my estimation, will not be creeping up in
11 the future. I believe the primary routes will have a
12 very good chance of being identified and designated.
13 And I think it helps the users to go on EP 1 or P 1.
14 I notice in the WEMO designations, some of the key
15 routes were designated with 001, such as 4001, 6001,
16 and I think that that should be recognized.

17 Rather than UTM's -- I like the idea about
18 marking the signs for maintenance purposes, but
19 really, you don't have to mark the UTM on the sign.
20 It really just needs a code number or some kind of a
21 number that can be cross-referenced in a Microsoft
22 Excel file. And if somebody wants to go out and do an
23 inventory, they can see where the signs are supposed
24 to be, based on a list of UTMs.

25 Also by assigning a number to that sign and

1 cross-referencing it with a UTM, it can be put into
2 GIS programming, and you have a whole other layer on
3 the map that can put a dot where every sign should be
4 for a maintenance person to be able to follow and see
5 if they are all still there. Could there perhaps be
6 consideration of sign density goals? Not that every
7 single area that is, has to have the same density. Of
8 course, some places have more roads and they are going
9 to have more signs. But we may have some thought as
10 to the density. And regarding that, perhaps we should
11 be limiting signs to intersections or entrances to
12 that road as opposed to having it 8-P-168 every 100 or
13 300 feet. It's generally only when you come to an
14 intersection that you need signs. That sounds like
15 common sense, but maybe it deserves mention in the
16 document.

17 Perhaps the maps -- GIS and the use of GIS
18 technology by the BLM has just grown amazingly and
19 wonderfully in the last number of years. And I
20 believe that is going to contribute to making maps
21 cheaper and easier to produce. But there is another
22 way to make them cheaper. Perhaps cosponsoring with
23 area businesses so that more frequent revisions can be
24 offered to the public.

25 My last point -- thank you for your

1 patience -- is that the expense and accuracy will be
2 improved. The expense of the maps and the accuracy of
3 the map will be improved with this GPS data and
4 technology implemented by the bureau. Thank you for
5 taking up so much time. Good luck on this proposal.

6 CHAIRMAN KEMPER: Thank you, and your
7 points are well taken.

8 MR. DENNER: Randy, would you be good
9 enough to put those comments in writing? You have
10 obviously put a lot of thoughts into it, and submit it
11 to the Council so we can make it part of the record.

12 THE WITNESS: Thank you.

13 MR. SMITH: It always is part of the
14 record because the court reporter is taking down the
15 testimony. It will be in writing. Don't worry about
16 it.

17 CHAIRMAN KEMPER: Paul, did you have a
18 comment?

19 MR. SMITH: No. I was just holding a
20 mike here.

21 MS. WARREN: Vicki Warren with Duners.
22 I have one thing that I would like the DAC to
23 recommend to the BLM. And that is that there be no
24 ambiguity on any of the signs. The signs that are
25 going to be for seasonal closures or temporary

1 closures or reroute. What I don't want to see is a
2 big red "closed," and a little tiny print saying
3 "except for Tuesday, Wednesday, Thursday." And if
4 that's possible the DAC could make that
5 recommendation, that would be important for all of the
6 users. Thank you.

7 CHAIRMAN KEMPER: Thank you, Vicki.

8 Please stand and state your name.

9 MS. QUINTANA: Helene Quintana from
10 Imperial County.

11 Did you say these signs are for the general
12 public like myself? Did you take into account color
13 coding for these signs, or are you leaving that up to
14 the local agencies? To me, traffic, the general
15 public is used to the green and amber and red. Red
16 means stop, green is okay to go. Did you consider
17 color coding the signs in any way? This is just for
18 the general public, not for the technical --

19 CHAIRMAN KEMPER: Thank you, ma'am.

20 MR. SMITH: My recollection, just a
21 comment, on the discussions in the TRT meetings was
22 that the BLM has a format for colors and that sort of
23 thing, that they are trying to provide a uniform
24 policy throughout the BLM, and that would really
25 govern it.

1 MR. ELLIS: Well, red means something
2 very strong. Red has been used by the BLM for closure
3 signs over the last umpteen years. And what we talked
4 about with respect to how to notify the public of a
5 closed route was to try to avoid red. Apparently what
6 has happened is the red has become very much like a
7 flag to a bull. So the BLM has experienced a lot of
8 vandalism and destruction in reaction to red.

9 So our policy suggestion was to try to
10 avoid red. Now, maybe in a few years when things calm
11 down a bit, red won't mean such a, you know, rile
12 people up as much as it does now.

13 So at this point we are recommending a
14 limited use of red. Try to suggest, you know,
15 alternate ways. You can get to where you want to go,
16 maybe, on this other way rather than putting a big red
17 sign. So that's a good point, but for red, we are
18 trying to back off on red.

19 CHAIRMAN KEMPER: Bob, you don't really
20 believe it's the color red that upsets people here?

21 MR. ELLIS: I used to have red hair. My
22 whole lifeline is involved with red.

23 MR. WILLIAMS: I'm Chuck Williams. I'm
24 the natural resources consultant for California
25 4-Wheel Drive Association. Also, I am the Sheriff's

1 Department representative for San Bernardino County
2 for desert issues and Supervisor Post, his
3 representative on desert issues. So I am only going
4 to talk about two points here.

5 One is that the idea that you are guilty
6 until proven innocent type of an approach to the roads
7 as being all roads are closed unless posted open is
8 kind of in direct conflict with the California Vehicle
9 Code. We don't post all of our highways as -- you
10 can't drive on it unless it's posted open. And we
11 have MOU's with the sheriff's department about vehicle
12 and other law enforcement issues. And if you want us
13 to enforce the laws on the roads in San Bernardino
14 County, then they need to conform with the California
15 Vehicle Code. And the whole concept of closed unless
16 posted open is in direct conflict with California
17 Vehicle Code.

18 And the only thing I have to say about it
19 is this PC use of red, there is an international,
20 national and state system for colors when it comes to
21 hazards and open and closed, and yes, you can, and no,
22 you can't. And I'm sorry people get offended by red,
23 but red is used to denote, no, stop, hazard, all over
24 the world. And if we want to change it just to be PC,
25 I'm sure the people out there who are pulling out the

1 red signs, it won't take them very long to find out
2 they can pull out a green, yellow or brown one if it
3 means no.

4 Changing the color may be fine for some
5 folks. But it will just add more confusion to an
6 already confusing problem. Besides, we have tons and
7 tons of maps out there that says red means no. And
8 not you are going to have to yank in every map you
9 have published in the last 50 years and change the
10 colors on it. So that's what I have to say about
11 that.

12 CHAIRMAN KEMPER: Thank you very much.
13 Point is well taken.

14 Linda, I would like you to respond one more
15 time. My understanding was that during the lawsuit,
16 the interim management was that routes that weren't
17 posted open were closed. But the policy is all routes
18 on open unless posted closed or they have been put in
19 such condition that people won't find them attractive
20 to travel.

21 MS. HANSEN: Each one of the interim
22 closures indicated what was going to be done under
23 that closure order. So those were closed by that
24 order. And so posted in those cases, I believe.

25 Our policy right now is not that it's

1 closed unless posted open. That is not our policy
2 currently. So does that answer the question?

3 CHAIRMAN KEMPER: I think so, yes.
4 Thank you.

5 Yes, sir. Would you stand and state your
6 name?

7 MR. CONDON: Thanks. My name is Paul
8 Condon, consultant to the Toye Mining Company and
9 Public Benefit and Historical Corporation. I also do
10 represent some other small mining interests on the
11 commercial side. So a couple of basic, quick
12 comments.

13 Under the Open Routes Signing section, I
14 would like to suggest something that did come out from
15 the West Mojave Route Designation, EIA amendment
16 process. And that is where open routes interface with
17 dispersed private property, that the BLM do what they
18 have done in some places. At least indicate that you
19 are entering a private property area and leaving BLM
20 land. When you have dispersed areas, it makes it
21 exceedingly difficult to maintain private signage on
22 any kind of basis, and the open route does increase
23 the trespass issue. And I'm not arguing for more
24 closed routes. I'm just arguing from a property
25 owner's standpoint that, accept some responsibility

1 and liability for what you are doing. That's Item 1.

2 Under Limited Routes, I would suggest,
3 because there are some issues that will be coming up,
4 that these four bulleted points not necessarily be the
5 entire standard. There are some issues that will come
6 up that deal with designations used to deal with
7 maintenance of small mining claim stakes, other issues
8 where if these become the four specific standards,
9 it's going to cause exceedingly large difficulties for
10 the BLM and for people involved. And this gets into a
11 technical issue that's been filed in protest.

12 The last item under Closed Routes, I think
13 the record needs to clearly reflect that the bulleted
14 items do not necessarily recommend the priority of
15 actions to be taken. Because if it does, if
16 rehabilitation is Item 1, you have got a problem, both
17 from the sense of other users, the implementation
18 costs, and the time factors.

19 So if somehow this is construed to be the
20 priorities, and rehabilitation is recognized as a
21 means of dealing with it, that should be the last one.
22 And I know these generalized standards over a long
23 period of time, because I have spent 20 years working
24 for the government myself, all of a sudden become the
25 primary priority from something that was originally

1 thought of as just a whole series and set of lists of
2 possible actions. Thank you.

3 CHAIRMAN KEMPER: Thank you, sir.

4 Would you please stand and state your name?

5 MS. MERK: My name is Sophia Merk. And
6 I'm just the public.

7 I have some questions regarding this.

8 First of all, since the signage will be interspersed
9 over many, many counties, I think that instead of just
10 the procedure, administrative procedural, it should go
11 through the NEPA process and have a proper EIS,
12 because the taxpayers need to know how much this is
13 going to cost, for one thing.

14 We need to know cumulative costs for the
15 whole area and so on and so forth. If you put up five
16 signs a day of these proposed signs that they may or
17 may not be still, it's going to be, you know, a couple
18 of people, maybe possibly getting five signs a day.
19 And how much is going to be the cost on that?

20 I also have a problem with closed unless
21 open. I also have a problem with bypassing CEQA
22 process for the state and private lands. There are
23 some things that should be administration, BLM
24 administration, but I don't believe this should be. I
25 think it should be a proper EIS. Thank you.

1 CHAIRMAN KEMPER: Thank you, ma'am.
2 Any more comments from the public? Yes, ma'am, would
3 you stand and state your name.

4 MS. GRIMSLEY: Mary Grimsley. A couple
5 things.

6 Rehabilitation. What happens to a closed
7 route after the signing process shouldn't even be in
8 this document. We are dealing specifically with
9 signing. So that's something. What happens behind a
10 closed sign should not even be a part of this.

11 A couple of things. I agree with Ron
12 Schiller as far as the discovery. I have been going
13 out for 35 years, and we go out prepared. You learn
14 real quickly the things you need to take.

15 The signing of routes along wherever you
16 are is going to be inviting people who are unprepared.
17 So if you've got all these signs out where you are
18 supposed to be, then you need to have water, someone
19 selling water, because a lot of people don't go out
20 there with water. Most people don't travel 395 with
21 water. And someone selling sandwiches and shovels and
22 that sort of thing.

23 Then education is what we need, not signs.
24 And we need a very limited amount of signs. At the
25 major kiosks at major routes that maybe enter into an

1 area, have pamphlets or something or even a small sign
2 that says "If you don't have certain items, don't go.
3 Come back prepared." And that's probably going to be
4 your best public safety thing that you could do.

5 We had an incident up in the Ridgecrest
6 area probably two years ago. A man who has lived in
7 Ridgecrest for a long time decided in August to take
8 his family out to the El Pasoes, and he had six people
9 in a van. He was traveling by himself. He had no
10 maps. He had inadequate water, and they got into
11 trouble. So their first thing was, they got on to BLM
12 for "Why don't we have a sign out there?"

13 First off, you went out there without a
14 map. And you went out there in August. You are
15 taking away common sense. Government has done that a
16 lot already. You can't do anything anymore on your
17 own without it being somebody else's fault. And we
18 need to encourage people to become educated about
19 where they are going to go before we start providing
20 everything they need before they get out there. Thank
21 you very much.

22 MR. BUGERA: Mike Bugera. Informing the
23 public, I believe in that, but I don't think you can
24 inform the public any more than we have when we named
25 it Death Valley. I have worked out on these highways

1 several times because that's what I do. And at Death
2 Valley Junction, I have been asked in several
3 languages several thousand times, "Is there anywhere
4 to buy water around here and how far to the next gas
5 station because we didn't fill up in Baker?"

6 And I always answer, "Do you have any idea
7 why this is called Death Valley?" And I just don't
8 see how we can -- if they can't understand death, I
9 don't understand what we can explain. Thank you.

10 CHAIRMAN KEMPER: Any more comments from
11 the public? We have taken --

12 MR. SMITH: Wait a second. Marie.

13 MR. BETTERLY: Call for the question.

14 MR. McQUISTON: We had a call for the
15 question.

16 CHAIRMAN KEMPER: I think we had
17 somebody that wanted to be recognized that I couldn't
18 see in the back.

19 MS. BRASHEAR: Marie Brashear. I have
20 been doing land use since I was in my twenties. I am
21 considerably older than that now.

22 I can remember a discussion that I had with
23 Jim when he was state director. And we talked about
24 this very issue at that time. And we came to the
25 conclusion that discovery, personal discovery down a

1 road that wasn't signed was part of the wonder and the
2 enjoyment of the desert. And that every citizen
3 should have the opportunity, stupid or wise, to
4 exercise that kind of enjoyment of the desert.

5 I am concerned about several issues that
6 relate to road signing. I'm not sure that in the
7 route designation process, that all the tribal groups
8 were consulted and that we know all of the accesses
9 that they need for traditional activities, for
10 religious activities, roads that others of us use for
11 other reasons that may be closed and signed closed. I
12 am concerned that the whole route designation process
13 is in my opinion seriously flawed, because of its
14 shortness of time and review.

15 I'm concerned that we put signs up or that
16 the proposal is to sign things -- to adopt the
17 position that things that are not signed are closed
18 and things that are signed are open, which is a
19 contrary position to everything that exists every day
20 in society. We have things that say, you may stop,
21 you may go, you may -- on streets, there are red
22 lights. We don't propose to do those out there. But
23 we don't have a sign anywhere that says this road
24 that's paved out here or this neighborhood street is
25 open or closed. People and courts have ruled over and

1 over and over again that roads which are not signed
2 closed, are open.

3 So it seems to me that instead of trying to
4 change the judicial system, instead of trying to
5 change what the public has come to understand as a way
6 of operating in this world, that maybe we ought to
7 look at how we can better utilize the system that we
8 have today.

9 It would seem to me that that's a
10 combination of several things, but it takes work. And
11 it's easier, I think, sometimes for our government
12 representatives to find ways to reduce the stresses in
13 their offices. And what you have to do in my opinion
14 is you identify the primary routes. These are primary
15 routes. Your maps show primary routes. Your maps may
16 show the roads that are closed, but you definitely
17 identify how you want to direct traffic by which roads
18 you identify as primary routes. And then those routes
19 that are particular problems should go through EAs and
20 be mulched.

21 It's been discovered over time that
22 eliminating the obviousness of the road stops the
23 traffic on that road. This will not prevent anyone
24 from hiking that route. It would not prevent anyone
25 from riding a horse on the route. Might give a little

1 problem to the bicycle guys, but no one else. And
2 maybe there is a way we could sit down together and
3 figure out how that route could still be accessible to
4 the bicycle guys. I don't know. I'm not an engineer.

5 But it seems to me if you adopt that kind
6 of a system, and then everything else is open out
7 there. And if you get in trouble, it's on you. When
8 I went to Death Valley, I had my little Datsun car and
9 I wanted to do the Titus Canyon Drive. And I talked
10 to a ranger, and I said, "Do I have to have a
11 four-wheel drive?" Because there is a big 4-wheel
12 drive with a slash through it.

13 And that ranger was very kind and said,
14 "How long have you driven the desert in your two-
15 wheel drive?"

16 I said, "Fifteen years, off-road and on-
17 road."

18 He told me there isn't going to be any
19 ranger in Titus Canyon. Go through. Just don't get
20 stuck. Don't get stuck. If you get stuck, it's a big
21 fine and you to have your vehicle removed."

22 So I drove Titus Canyon, and I didn't get
23 stuck. I had a sense of exploration, the wonder of
24 seeing sights in the canyon, and I didn't go to jail.
25 And those are the kinds of things that people go to

1 the desert for.

2 And I think it doesn't have to be a complex
3 problem with carsonite signs every 15 minutes or every
4 two seconds. Thank you.

5 CHAIRMAN KEMPER: Thank you very much.
6 I have had a call for the question. Any opposition to
7 the motion?

8 MR. BROWN: Opposed.

9 MR. RISTER: Opposed.

10 MR. McQUISTON: Did we just vote? How
11 about an ayes and noes or something?

12 MS. HANSEN: How about a repeating the
13 motion?

14 CHAIRMAN KEMPER: How about a repeating
15 of the motion? The motion as I understood it would be
16 with the changes that are recommended by this Council
17 to the TRT and so stated by Paul.

18 MR. SMITH: And I believe that was the
19 motion. Here is the draft with the interlineations
20 and the changes on it, if anybody wants to look at
21 them.

22 CHAIRMAN KEMPER: Would you like it
23 opened up for discussion?

24 MR. SMITH: No, I think it's an aye or
25 nay vote.

1 CHAIRMAN KEMPER: All in favor? All
2 opposed? Any abstentions?
3 MR. BETTERLY: One abstention.
4 CHAIRMAN KEMPER: Let's have the ayes
5 again. So six ayes. Opposed, four opposed. And one
6 abstention.
7 MS. HANSEN: Mr. Chairman.
8 CHAIRMAN KEMPER: Yes, district manager.
9 MS. HANSEN: Would you have any further
10 direction that you would want to give this TRT based
11 on this action?
12 CHAIRMAN KEMPER: I think the feeling --
13 and I will open it up for discussion in a little
14 bit -- but I think the feeling is we got a lot of
15 input in here from the public that should maybe be
16 considered. And we should consider this document a
17 working document, and that we work to more consensus
18 amongst the Council. It's a real close vote, and I
19 would like to have a little more support. And I think
20 a lot of people would like to support it, but I think
21 we got some information in that the TRT should
22 consider seriously, and I would hope that the TRT
23 would continue to work on it.
24 MR. RISTER: I want to thank the TRT for
25 the hard work. I know the number of meetings they

1 attended and the amount of time they put into it. And
2 I think the public comment that have been received
3 today and the comments by the DAC show that we
4 probably should consider the testimony when the court
5 reporter develops it for us to review further. And I
6 would like to see this brought back at a future
7 meeting with the additional input. But I think up to
8 this far, it's been an excellent job and it needs a
9 little bit more tweaking.

10 MR. SCHILLER: Second that motion.

11 CHAIRMAN KEMPER: So I have a motion and
12 a second. Any discussion? Bob Ellis.

13 MR. ELLIS: We had representation a
14 little more diverse when we had Jeri Ferguson on this
15 committee. Is it possible that Ron could join the
16 TRT, as much as he is on the other TRT. Then we could
17 continue forward. I don't know if that should be an
18 amendment to the motion or however that might be
19 incorporated.

20 CHAIRMAN KEMPER: I don't know that
21 that's part of the motion or part of the discussion of
22 the motion, but I think it's something we should
23 consider.

24 MR. McQUISTON: I thought you asked Ron
25 yesterday about serving.

1 CHAIRMAN KEMPER: That was a different
2 TRT. That was regarding Surprise Canyon. And I think
3 we should -- we can consider that, but I don't believe
4 that's part of the motion.

5 MR. BUGERA: Did we -- are we scrapping
6 this vote? Is that what we are voting on to --

7 CHAIRMAN KEMPER: I don't believe we can
8 ever scrap a vote, but we try to have a consensus when
9 possible. And it appears that we are kind of split
10 here. And we are split because we don't feel that the
11 work is completed.

12 MR. BUGERA: So then the motion -- we
13 are going to have another vote to continue it?

14 MR. McQUISTON: As I understood it, we
15 approved the signage concepts -- it's a draft -- to
16 the point that they were discussed, and that passed on
17 a 6-4 vote. The motion and second before now is a
18 referral to take the public comments that we received
19 today, those -- and for those comments to be referred
20 back to the TRT and for further refinement to bring
21 back to this board at our next session. Is that a
22 correct assessment?

23 MR. RISTER: Bring the draft with the
24 improvements back to the next DAC meeting.

25 MR. McQUISTON: It's also my

1 understanding that in making the original vote, we in
2 no way at all are discussing policy issues and -- my
3 vote was very clear. It was based on Linda's
4 statement, the current policy is, if a road is not
5 signed, it is open. That is the current policy. And
6 nothing in today's decision affects that one way or
7 the other.

8 CHAIRMAN KEMPER: Bob Ellis.

9 MR. ELLIS: I would like to make sure
10 that people are agreeing that the other continuing
11 tasks of the TRT is to evolve a draft clear map so
12 that we have another piece along with the signing
13 refinements when we come back, if that's acceptable,
14 as well, because that was a piece that I had hoped we
15 would have something to show the board. But so far we
16 have not. So to me that is the most -- that is the
17 other piece that we have not really worked through,
18 and I would hope we can.

19 CHAIRMAN KEMPER: Bob, I think the
20 reason for the motion was that -- I think everybody
21 here thinks you guys have done a grand job, but we
22 believe that there is more work to be done. So as a
23 draft, I think that you have a great vote of
24 confidence. But I think the bulk of the Council just
25 believes that when you have a team working as well as

1 you guys are, we want to keep you on board in working
2 the entire issue.

3 Paul.

4 MR. SMITH: Just a point of process. I
5 think I should lodge this with the notes that are on
6 it with the court reporter so that it becomes part of
7 the transcript. And we should all remind ourselves
8 that what we do here is advisory to the district
9 manager, and there is nothing to stop us from coming
10 back with later additional recommendations and advice.

11 MR. BUGERA: Call for the vote.

12 CHAIRMAN KEMPER: All in favor? Any
13 opposed? Hearing none, motion carries unanimously.

14 We are running a little late, and I hope
15 you will bear with us, but I think it would be
16 beneficial to everybody to take about a 10-minute
17 break. We will reconvene in ten minutes.

18 (Brief recess was taken.)

19 CHAIRMAN KEMPER: We had talked about
20 putting a motion forward, though I don't believe we
21 can take a vote without John McQuiston being here.
22 I'm not sure where he is.

23 UNIDENTIFIED SPEAKER: He is here.

24 MR. ELLIS: I would like to make a
25 motion that Ron Schiller be included in the TRT from

1 now on with respect to the signing policy.

2 MR. SMITH: Second the motion.

3 CHAIRMAN KEMPER: I have a motion and
4 second. Any discussion? All in favor, aye. Any
5 opposed? Hearing none, motion carries unanimously.

6 If the county is ready with their
7 presentation on the West Valley Plan, that would be
8 great. Thank you.

9 MR. HAIGH: We had our Power Point on
10 the screen, and it seems to have faded for a second.

11 CHAIRMAN KEMPER: Do we need to dim the
12 lights just a little bit? Will that help?

13 MR. HAIGH: I think technology is
14 cooperating.

15 I'm Bill Haigh. I'm the project manager
16 for the West Mojave Plan, and that's a land-use-plan
17 scheme put together by a consortium of state, federal
18 and county and city agencies here in the Western
19 Mojave Desert. It serves as a habitat conservation
20 plan on private lands, and it will be an amendment to
21 the Desert Plan on public lands.

22 What I will do today is give you an
23 overview of the plan, how we put it together, and then
24 get into some of the meat of the proposals because in
25 the last three weeks, it's been released for public

1 review, a 90-day public review, that will wrap up in
2 the middle of September.

3 After I talk, Randy Scott from the County
4 of San Bernardino will give you a little bit of a
5 perspective on the private land side of the West
6 Mojave Plan. And following him, Ed LaRue, our
7 tortoise biologist, and Larry LaPre, who handles all
8 the other species, will give you a little more
9 perspective on some of the measures that the West
10 Mojave Plan proposes for a variety of species. So if
11 we can have the next slide.

12 The planning area, it's about 9 million
13 acres. Goes from the north here, the Owens Lake,
14 Sierras, Palmdale, Lancaster, Victor Valley, all the
15 way down to Joshua Tree in the south and almost out to
16 Baker in the east. About one-third BLM, one-third
17 private, and one-third military.

18 The West Mojave Plan applies to the BLM and
19 the private lands. And it's been designed so it's
20 compatible with the Base Management Plans that have
21 been put together for the five military bases. One
22 thing you ought to keep in mind is our geographic
23 location. We are right next to 18 million people down
24 here to the southwest in the Los Angeles metropolitan
25 area and the growth of the L.A. metro area into the

1 desert has created a lot of the urban interface issues
2 that really gave rise to the West Mojave Plan.

3 Now, the impetus for the plan is the desert
4 tortoise, our California State reptile. And the
5 tortoise was listed as threatened by the state and
6 federal government a little over ten years ago. It's
7 a really high visibility critter. It's probably our
8 baby seal out here. Pro or con, it certainly has a
9 lot of passion surrounding it.

10 This is a map the tortoise range. You can
11 see here again, Southern California. Everything in
12 that kind of pinkish red is tortoise range. And this
13 great big blob right here, that's basically the West
14 Mojave and again down here is Los Angeles, growing out
15 into the desert. So we have a sensitive species right
16 outside a very large growing city.

17 Next. The problem that we find is really
18 reflected in a lot of the survey work that's been
19 done. Extensive surveys in the seventies and in the
20 last three or four years.

21 Back in the seventies, this is a map of
22 where tortoises were in the Western Mojave. All over
23 the central part of the West Mojave especially up here
24 near California City northeast of Kramer Junction
25 north of Edwards.

1 On the basis of surveys we ran since '98,
2 it confirmed pretty much what the biologists have been
3 telling us, a big collapse of the tortoise population
4 in Northwestern part of the West Mojave. And it was
5 this collapse that really led in large part to the
6 listing of the tortoise as threatened ten years ago.
7 And what is left is basically this area of tortoise
8 population to the big oval from just south of Edwards
9 out to Fort Irwin and then down towards the Marine
10 Corps Base in Lucerne Valley.

11 This is what is remaining of the tortoise
12 population. One thing we found by analyzing the data,
13 specifically last winter, is tortoise die-offs. We
14 often talk about the big die-offs that occurred 15
15 years ago up by California City. It's reflected in
16 the light colored areas. These are old die-off zones
17 northwest of Kramer Junction. What we found is a
18 continuing pattern. These darker area of die-offs to
19 the southeast of that area, which seems to indicate
20 whatever happened up here is now happening here.

21 If you remember, this is the current area
22 of what's left of the tortoise populations. Something
23 is happening up here on the northeast similar to what
24 happened ten years ago farther to the northwest. So
25 that's the problem we are working with.

1 Next. What is causing it? Well, nobody
2 knows for sure, but it seems to be just a combination
3 of a number of factors: Disease, predation, just the
4 growth of cities and urbanization to the desert, just
5 a variety of things.

6 Next. The desert tortoise isn't the only
7 critter that we are looking at in the West Mojave
8 Plan. The Mojave ground squirrel -- you might think
9 of it as sort of a sidekick.

10 It's an animal that's listed by the State
11 of California, and it's only found in the western half
12 of the planning area. Again, this shaded area is
13 Mojave ground squirrel range. Nowhere else in the
14 world, just right here. What this means, both of
15 these things, Mojave ground squirrel and the desert
16 tortoise are a lot of red tape and permitting issues
17 that you wouldn't have in areas where you don't have
18 an endangered species.

19 If you want to go right here to Victor
20 Valley or go to Palmdale/Lancaster, and you want to
21 build that new shopping center or new residential
22 area. You are on private land, and you got all your
23 permits from the cities and counties and you say
24 "Great, I can build."

25 And they say, "Well, maybe not quite yet."

1 You have to go and get more permits from the wildlife
2 agencies, Cal Fish and Game and the Fish and Wildlife
3 Service. You have to get something called an
4 incidental take permit. And getting that, by the way,
5 you are going to have to spend a lot of monies for
6 endowment fees, bio reports, and by the way, it may
7 take you two years to get it.

8 This has raised a lot of concerns from the
9 local government side that Randy can talk to in a
10 couple of minutes about the delays and costs of
11 getting these additional Endangered Species Act
12 permits on private lands. So what we have here is a
13 situation out here on the public lands, a mandate from
14 congress to conserve tortoises and other sensitive
15 species. Down here on the private lands, a need to
16 get out from all the burden of the red tape that goes
17 along with the Endangered Species Act.

18 We also have an expansion of the military
19 base at Fort Irwin for national security issues, to be
20 able to increase ability to train desert troops. How
21 do you get this to occur and at the same time, still
22 maintain tortoise population?

23 And finally, a variety of a lot of other
24 issues we are looking at in West Mojave. This is a
25 little critter called the Lane Mountain Milk Vetch.

1 It's listed as an endangered, and it's found only in
2 one little tiny area in the world; right next to the
3 Fort Irwin expansion area.

4 So the purpose is to look at endangered
5 species, wild life, and plant issues and come up with
6 a fix, streamline the red tape, conserve the species.

7 Next. Again, our problems: Red tape of
8 the ESA, conserving the species, dealing with the Fort
9 Irwin expansion, and a couple of other things.

10 Next. There are always a couple of other
11 things. So the solution to all of this, with all the
12 cities, and the counties, and the BLM and wildlife
13 agencies, all trying to do it separately, the BLM
14 through the Desert Plan, all these other things going
15 on. Why don't we get together and collaborate as a
16 collection of agencies, and that led to the West
17 Mojave Plan. It is not a BLM plan, per se. It's an
18 inter-agency effort being put together by cities,
19 counties, and agencies, including the BLM, all over
20 the Western Mojave.

21 Again, on public lands, the West Mojave
22 Plan can be put into effect through an amendment of
23 the Desert Plan. And on private lands, through the
24 development of what they call a Habitat Conservation
25 Plan, which is basically the scheme you have to put

1 together in order to let the wildlife agencies
2 streamline that lengthy and costly permitting
3 procedure.

4 Next. It's really difficult. Takes a long
5 time. These things take years and years to put
6 together, but we feel it's really the only good
7 alternative we have to continual litigation and
8 conflict, which has been kind of the mode in the
9 desert for the last decade or so. If we can get
10 everybody to put issues into place across the board,
11 we can avoid the issues we have been struggling with
12 these last 10, 15 years.

13 Next. So again, goals of the plan: Cut
14 the red tape, conserve the species.

15 Next. The key to doing a plan like this is
16 to get the right people involved. And that means in a
17 lot of cases, the right agencies, the permitting
18 groups. We have pulled in the BLM. We have three
19 counties that have been very actively involved: San
20 Bernardino, Kern and Inyo. Our cities, the wildlife
21 agencies, Caltrans, and their freeway, and cooperating
22 with us, the military bases. Now we don't have
23 somebody coming in and saying, "Hey, you forgot about
24 me. Go back to the drawing board."

25 Right now we have just released an

1 environmental impact report and statement on the West
2 Mojave Plan. The lead on the federal side is the BLM.
3 The co-leads on the private side or rather on the
4 private land side, the CEQA leads, are San Bernardino
5 County and the City of Barstow. Most of you on the
6 Council should have copies of that by now, and we have
7 several more copies, 11 pound, 5-inch-thick pile of
8 paper that you have seen floating through the mails
9 recently.

10 As far as cooperating agencies, formally
11 designated cooperating agencies, we have Kern County
12 and San Bernardino County.

13 Time frames: Well, the draft plan and the
14 draft EIR just came out two weeks ago. We are looking
15 at a final plan and the final EIR-EIS sometime the end
16 of this year, beginning of next. That probably means
17 a federal decision and amendment of the Desert Plan
18 sometime next spring, and the state and local
19 decisions on this thing will probably follow --
20 probably sometime in 2004, thereafter, just however
21 long it takes.

22 Next. One thing you should understand is
23 the relationship between the West Mojave Plan and the
24 Route Designation EA. As you are probably aware, we
25 came up with -- because of the stipulated agreement

1 between BLM and the Center for Biological Diversity, a
2 deadline was set on completing route designations in
3 the Western Mojave Desert. And that deadline is 48
4 hours from now, on Monday.

5 Because of that, BLM is required to make a
6 decision on route designation, an amendment to the
7 Desert Plan, to adopt a route network by June 30th.
8 And to that end an EA with a route network was
9 released earlier this spring. The public review ended
10 about a month and a half ago, and a decision will be
11 made in two days. It's very narrowly focused on route
12 designations only.

13 Contrast this with the 11-pound document,
14 the West Mojave Plan. The West Mojave Plan is very
15 broad. It's looking at conservation of wildlife,
16 streamlining the Endangered Species Act procedures.
17 It has a 90-day review that's ending on September
18 12th. And a decision meeting on federal land, a
19 Federal land-use plan Amendment will be made next
20 spring.

21 Now, there is one more key thing to keep in
22 mind. Although the Desert Plan is being amended to
23 adopt a revised route network in 48 hours, there is
24 another Desert Plan amendment next spring. That's
25 when the West Mojave Plan is going to be adopted. And

1 that gives us many months here, especially the next
2 three before the middle of September, to look at that
3 network, refine it, to make suggestions and comments
4 and to work with our staff.

5 To that end, Les Weeks, our planner, is
6 going to be working closely with a number of people to
7 see how this network works, where we might have to
8 make it work better, what changes we might have to
9 make in order to make it a good, effective network.

10 But as of Monday, the Designation Project
11 EA will be signed. A route network will be in place.
12 The next nine months, an opportunity to refine that
13 network, to make comments on it, so you have to keep
14 involved.

15 When we put together West Mojave, we did it
16 through a very public process. Our Super Group,
17 that's the representatives of all the agencies and the
18 cities, all stakeholder groups, gave us a message. No
19 smoke-filled rooms. Keep everything public. So
20 that's exactly what we tried to do. Through a whole
21 series of committees and working, we had --
22 essentially the Super Group wrote the plan over two
23 and a half long, long years. We basically banged the
24 components of the proposed action together.

25 Next. Task Groups, we had one for

1 conservation strategies and a number of others. They
2 were assigned the job of writing the plan. Between
3 December of '99 and June of last year, they put this
4 thing together. We had open membership, so if you
5 walked in the door, you could join the Task Group. We
6 had what we considered the best science available,
7 recent field service, recent data and leading experts.
8 And we communicated with folks on the Internet.

9 Next. When you sometimes came into
10 disputes, we had procedures for trying to resolve
11 those, either sending those disputes out to
12 subcommittees, or adopting a disputed position that
13 maybe didn't meet with majority approval as the core
14 of the alternatives you are going to be seeing in the
15 Environmental Impact Statement. If you have a
16 dispute, a tough issue, we put it in the EIR as an
17 alternative.

18 Next. The conservation strategy that
19 evolved is here on this map. And I have also posted
20 on map out of the document over here that is a general
21 summary of it.

22 Next. That conservation strategy first is
23 centered on the identification of conservation areas
24 for wildlife conservation. There are 17 of these
25 conservation areas. Four are for the desert tortoise.

1 We have a Mojave ground squirrel conservation area.
2 Those are the big ones. And then there are a whole
3 variety of small ones. Big Rock Creek over by
4 Palmdale/Lancaster, Barstow wooly sunflower. And on
5 the map you will find on the back of the document, you
6 will see a big blue area in the middle. That is the
7 habitat conservation area. It's the area where we
8 will still have a working desert, but where we will
9 really try to focus efforts to conserve wild life and
10 plant species.

11 This map over here in the back with this
12 blue thing, it goes by the nickname of the blue blob
13 map. When you hear that reference, they are talking
14 about the main west Mojave map that shows where the
15 conservation areas are. And this is the map when you
16 are reviewing the document to keep in the back of your
17 mind because, again, the blue, the habitat
18 conservation area composed of 17 conservation areas,
19 that's where a lot of the action is with wildlife
20 conservation.

21 Next. We have also, as part of our efforts
22 to try to cut costs, are proposing that we take the
23 rather confusing assortment of endowment fees,
24 mitigation funds, compensation and everything imposed
25 for all these various species, and replace them with a

1 simple, straightforward three-tiered mitigation fee
2 strategy with relatively higher fees for new ground
3 disturbing activities out in the blue blob area, and
4 relatively lower fees in the urban areas so people
5 don't have to pay high fees when they are going into
6 urban infill projects.

7 Next. Also, tortoise surveys. We have --
8 today there are two types of tortoise surveys that
9 somebody has to do before they have to have a project.
10 A presence-absence, just to check to see if they are
11 there. And a clearance survey, just ahead of the
12 bulldozers. These are done everywhere, whether there
13 is any likelihood of tortoises out in the middle of
14 the deep desert or just out in the middle of Palmdale
15 where people very rarely see them at all.

16 What we are talking about replacing that
17 with is, again, a three-tiered structure. Out in the
18 tortoise conservation areas, we have the presence-
19 absence surveys required. These are expensive so we
20 limit them to where there is really a reason to put
21 them.

22 In a broader area, surrounding the cities
23 but not in the cities, we have clearance survey areas.
24 You wouldn't have to do a presence-absence anymore.
25 And then in the cities themselves in the dark black

1 areas, you would have no surveys required at all for
2 desert tortoises. And this is pretty significant to
3 permittees and developers because it's expensive to
4 hire Ed LaRue to go out and run a survey.

5 Again, for Mojave ground squirrel, survey
6 requirements now all over the desert would be limited
7 to the Mojave ground squirrel conservation area. It's
8 a real sticky on private lands because of the high
9 cost of doing surveys next to downtown Palmdale. So
10 we are trying to focus those surveys out in the deep
11 desert.

12 Next. Livestock grazing. On the cattle
13 side, we basically -- we think that grazing and
14 wildlife conservation can coexist. There is some
15 concepts explored in the document. One of these are
16 the exclusionary areas, areas when the forage is
17 really low in dry year, you might move cattle off some
18 of the allotments. This is a provision of voluntary
19 relinquishment of allotments down the line.

20 Also, temporary nonrenewal at the
21 suggestion of one of the livestock ranchers out there.
22 We are talking about retaining the option for
23 temporary nonrenewable forage allocations at
24 elevations above 4500 feet. Sheep grazing, trying to
25 keep in place the 1994 biological opinion, there is

1 some minor modifications out there, such as band size,
2 how you get rid of carcasses, that sort of thing. But
3 again, these are things in the document you might want
4 to take a look at.

5 Next. Motorized vehicle access network.
6 Again, the motorized network we are deciding on, a
7 decision will be made on Monday. But the network is
8 still being presented again in the West Mojave Plan as
9 an opportunity for you to refine that network and to
10 make any suggestions so we can keep working to make
11 this a good network and amend the Desert Plan next
12 spring to take those fine-tunings and put them into
13 effect.

14 What we have for a motorized network is
15 following detailed field surveys, combining the
16 results of on-the-ground GPS surveys of off-highway
17 vehicle routes, of recreation venues and destination
18 points, of commercial needs, combining that with the
19 new biological data collected since 1998. So through
20 a decision-tree process designed to have a
21 standardized process of applying all the criteria in
22 FLPMA, in federal regulations, and in the Desert Plan,
23 I think we had a very good structured system for
24 coming up and deciding whether routes should be open
25 or closed.

1 There are about a dozen specific amendments
2 of the Desert Plan. There is a table in the document
3 that I think you will want to look at in Chapter 2
4 that summarizes those amendments and then further
5 tests describe them more fully. It talks about new
6 areas of critical environment concerns, some multiple
7 use changes, there are some pending amendments from
8 the Rand Plan and the Achy ^ check Canyon Plan that
9 have been hanging around for several years with the
10 intent of incorporating those changes in the Desert
11 Plan. We are taking care of those right now. There
12 is the route designations, modifications of that
13 network, a whole variety of things.

14 So when it comes to your interest in what
15 is going to happen to the California Desert Plan, I
16 would say take a look at the dozen or so amendments
17 and the tables in the documents and become familiar
18 with those, because those are the ways that we are
19 trying to change the Desert Plan to make it in
20 conformity with our strategy in the West Mojave Plan.

21 Next. We have seven alternatives in the
22 EIS. So when you start burrowing into the five inches
23 of paper, you are going that the document focuses on
24 seven different concepts. The first is the proposed
25 action that was developed through all that work

1 between '99 and 2002.

2 The second is an alternative that says what
3 if it was only implemented on the one-third of the
4 lands that are BLM administered and we didn't have a
5 private land component. What would that mean?

6 The third, what if we didn't use the
7 proposed action, but we tried to have an action that
8 literally imposes the recommendations of the Desert
9 Tortoise Recovery Plan?

10 Fourth, we have kind of what we call the
11 enhanced ecosystem alternative that has a few -- that
12 leans more towards wildlife conservation.

13 The fifth leans a little bit the other way,
14 towards enhanced recreation opportunities and trying
15 to set up just one tortoise conservation area rather
16 than four.

17 We have a sixth that examines the question,
18 can you recover tortoises if you focus strictly on
19 raven and disease management rather than setting up
20 areas for land use bases for habitat conservation?
21 Will that work?

22 And then finally you have no action, which
23 is the way things are today in the California Desert
24 Plan. A lot of these came right out of the scoping
25 process or out of our task group meetings. So a lot

1 of the ideas in here are ideas raised by the public in
2 putting together the plan.

3 Any plan like this will have a number of
4 implementation costs for a whole variety of things:
5 Public education, the raven control, head starting of
6 tortoises. There is an appendix you should look at in
7 the draft EIR that lists all the 200, 250-odd measures
8 that are scattered throughout the plan. And so here
9 are those measures. Here is what the biologists think
10 as far as their importance, and where we could put a
11 price tag on those, how much they are going to cost.

12 That's going to be very important in the
13 end in deciding, how do we prioritize this? How are
14 we going to be able to afford these things? So I
15 would encourage you to read the appendix in the
16 document that deals with implementation and
17 implementation costs and priorities and give us your
18 thoughts on that, because I think it's a very
19 important subject.

20 We have a whole series of seven public
21 meetings. The present releases have just gone out in
22 the last few days, and these meetings will be all
23 through the end of July, actually write down here in
24 Redlands on July 22nd. We are going to start in
25 Victorville on Tuesday, the 15th; Lone Pine on the 16;

1 Ridgecrest the 17th; and then the following week we
2 are going to be here in Redlands, Yucca Valley, and
3 Palmdale.

4 All meetings will be 6 to 9 p.m. The
5 purpose of those meetings will be to take oral
6 testimony on the plan, so we will probably have an
7 overview of the plan, then recess, and have an
8 opportunity for questions and get back to together and
9 take oral comments. We will have a court reporter at
10 all those meetings. There was a news release with all
11 those dates right in back of me, they tell me, as a
12 handout.

13 On the table outside, there is a news
14 release with all these dates on it. So you can pick
15 these up before you leave.

16 So, keep these upcoming dates in mind. In
17 two days BLM is going to decide a decision record,
18 putting into place a route network, and amending the
19 California Desert Plan to adopt that route network.

20 On September 12th, the public review for
21 the draft West Mojave Plan is going to be completed.
22 So all comments will be in by then.

23 By the end of this year, we are thinking
24 about -- we are shooting to have a final EIR and
25 Statement out. And by sometime next spring, we are

1 looking to have the BLM half of the West Mojave Plan,
2 a decision on that rendered. And that would be an
3 amendment to the Desert Plan that would incorporate
4 all these provisions of the West Mojave Plan into the
5 Desert Plan by sometime next spring. And that will
6 include any revisions of the route network.

7 And then finally, sometime in the course of
8 2004 or thereafter, we will have the decisions by the
9 various local jurisdictions, the development of what
10 they call the implementing agreement, the submission
11 of a formal proposed habitat conservation plan to the
12 wildlife agencies. All that's likely to happen about
13 a year, year and a half from now.

14 So in summary, it's a very large operation.
15 Probably at least the largest habitat conservation
16 plan being put together in the country today. We are
17 looking at this thing to give -- to conserve wildlife
18 and plants. At the same time, we are trying to cut
19 the red tape on endangered species and give an
20 economic stimulus to the desert. It was put together
21 through a very collaborative public process, open at
22 all times, no secret documents.

23 And right now we have a joint federal,
24 state, local Environmental Impact Report and Statement
25 that's been out for a couple of weeks. You folks

1 should review it between now and September 12, the
2 proposed action and the seven alternatives.

3 Well, I have three more people that are
4 going to come up.

5 First, Randy Scott is going to talk about
6 local government issues, kind of the perspective of
7 San Bernardino County and maybe other cities and
8 counties to the West Mojave plan, kind of why they
9 are in it.

10 Then Ed LaRue will be here to talk a little
11 bit about desert tortoises, about tortoise strategy
12 and biology. And Larry LaPre, he gets all the rest of
13 them. Questions about the plants, the animals, talk a
14 little about the strategies for them. That's Larry
15 LaPre. And we do have copies of the West Mojave Plan.
16 These big boxes over here. That's what they are full
17 up. One plan per big box.

18 MR. SCOTT: I have a few handouts, and I
19 will distribute those in a moment. But Bill and Duran
20 asked me to come speak to you today, and we can turn
21 on the lights. I don't need the slide program.

22 CHAIRMAN KEMPER: You have to talk into
23 the top end of the mike.

24 MR. SCOTT: How is that?

25 CHAIRMAN KEMPER: That's perfect.

1 Actually, it was designed that way because that way if
2 you hold it up for a long time, your arm gets tired
3 and you have to quit talking.

4 MR. SCOTT: That's the signal. When
5 your arm wears out, it's time to leave.

6 I'm Randy Scott with San Bernardino County.
7 I'm the division chief for advanced planning within
8 the county. And I have been lead staff on the plan
9 for a number of years.

10 The county -- I came to provide both the
11 San Bernardino County perspective, but also local
12 government perspective on the plan.

13 And the fundamental question that people
14 ask, What is in this for local government? And our
15 interests are severalfold, but primarily, we see this
16 as a comprehensive long-term regional scale plan. It
17 provides a regional solution to what we have been
18 dealing with on a very small, individual, incremental
19 basis. And it's caused a lot of problems for local
20 government, for private lands, for individual
21 developers. And we think the plan provides an
22 opportunity to streamline the process from the private
23 land development perspective.

24 We have county general plans that have
25 various policies that relate to open space, habitat

1 protection, and those kinds of things that are
2 somewhat comparable to the California Desert
3 Conservation Area Plan. And so from that perspective,
4 what we are doing in a collaborative manner with the
5 BLM and the other jurisdictions fits with our general
6 planning policies for the local government.

7 But more than that, there are some real
8 down-to-earth, practical reasons why we are in this.
9 And a lot of it has to do with streamlining the
10 development process for private property, for local
11 developers and so on. Also streamlining it for the
12 county, from a public works standpoint: Public road
13 maintenance or road construction, special district
14 activity in providing water, maybe sewer services,
15 parks and recreation activities, and so on.

16 The multispecies approach that's taken in
17 the plan is really critical to our perspective. It's
18 different than what we have been dealing with with
19 just the desert tortoise and just the Mojave ground
20 squirrel, because from a local government standpoint
21 in California, we are subject to a couple of different
22 regulatory requirements. One is the California
23 Environmental Quality Act. It's comparison to NEPA,
24 National Environmental Policy Act for the federal
25 activities. It requires very rigorous review. It

1 provides an opportunity for challenges to projects and
2 delays with development.

3 And so from the review from a biological
4 standpoint of projects and impacts on biological
5 resources, we think this plan provides an opportunity
6 to streamline that aspect of it. It's very key to our
7 interests and our stakeholders.

8 The plan integrates state and federal
9 endangered species permitting procedures, critical for
10 us. So we have now an opportunity to combine the
11 processes, on both the federal ESA and the California
12 ESA, Endangered Species Act. And it provides an
13 opportunity for us to incorporate the biological
14 resource review associated with private potential
15 impacts of private development on habitat that's
16 subject to the California Department of Fish and Game
17 review.

18 That's another process, sort of a dual
19 process and duplicative of potential dealings with the
20 US Fish and Wildlife Service, from FEA standpoint.
21 And the fact that the tortoise, in particular, is
22 listed in California as an endangered species, as well
23 as the Mojave ground squirrel. Both of those have
24 been the focus of the conservation strategy. But the
25 multispecies approach expands that to look at other

1 both listed and nonlisted species required to be
2 examined, addressed under CEQA, California
3 Environmental Quality Act, and the California
4 Department of Fish and Game review process.

5 We think the plan adds certainty to
6 resolutions of the biological issues associated with
7 the development in the private sector. And this is
8 done both cumulatively and individually. At an
9 individual project and from a cumulative standpoint,
10 based on the regional scale of the plan. We think
11 that's very important.

12 It creates a more predictable process for
13 developers, for private landowners. Right now, there
14 is a great deal of uncertainty and delay associated
15 with development in most jurisdiction within the West
16 Mojave -- and we are dealing with two different
17 wildlife agencies, Fish and Wildlife Service,
18 California Department of Fish and Game -- the unknown
19 issues that they get into in dealing with those
20 departments in terms of adequate mitigation for
21 individual projects.

22 And this is really characterized as a
23 one-stop-shop kind of approach. Here it is. It's
24 laid out. The mitigation fees Bill described in the
25 presentation. People know that going into the process

1 up front. They know the point that they will have to
2 provide mitigation. And there is a, we think, an
3 economy of scale and also cost reduction associated
4 with the comprehensive biological costs incorporated
5 in this multispecies conservation plan.

6 Basically, the mitigation will compensate
7 for impacts to not only the tortoise and ground
8 squirrel, but other species that are addressed in the
9 plan. That's really important from the private
10 development standpoint.

11 Another important aspect of the plan, just
12 from San Bernardino County's perspective and the City
13 of Barstow's perspective, is the opportunity to
14 provide resolution to biological impacts, tortoise,
15 Lane Mountain Milk Vetch for the Fort Irwin expansion.
16 Fort Irwin is very important to the unincorporated
17 communities in the Barstow area, and it's certainly a
18 very important economic force in the City of Barstow.
19 That's key to the County's interests and the City's
20 interest.

21 Another aspect of this is that we intend
22 on, as part of the streamlining aspect of the plan, as
23 we will implement it at the local level, is to use the
24 information that's been generated, the biological
25 survey information and data that's been collected, as

1 a basis for relying on this in our CEQA reviews from
2 the biological standpoint. We are intending not to do
3 further biological reviews as a general survey
4 requirement that we normally have or have been in the
5 past requiring with individual developments. There is
6 a cost savings associated with that.

7 The exception is the clearance survey that
8 Bill mentioned where tortoises have been known or
9 demonstrated to occur. And following an approval at
10 the local level of a development project, then in
11 those identified areas, a clearance survey just to
12 remove tortoises out of harm's way prior to grading or
13 development would be required. But currently we
14 require general biological surveys to inventory
15 habitat, endangered species that may occur there. And
16 in addition, they may have to do focus surveys for
17 ground squirrel or desert tortoise or another species,
18 which is time-consuming, delays the process, and
19 expensive.

20 Let me get these handouts going here. We
21 have to start that one side. And start this around
22 the other way. This is kind of correlated. The first
23 two sheets, take two sheets together.

24 The first handout is a table from the
25 EIR-EIS. It's sort of a sample or example of the

1 processes, permits and costs of obtaining permits and
2 performing surveys associated with development on
3 private land. And this is an example, using a typical
4 10-acre parcel, of what may be involved in conducting
5 surveys, determining whether critters are present or
6 absent on the site. If they are found to be present,
7 the permitting process or the types of permits that
8 are required and the costs associated with that and
9 the time frame associated with it.

10 I think the bottom line is that you can see
11 there is some significant potential savings to a
12 property owner, both just in straight dollars but also
13 in time. And the bottom line issue is that the
14 mitigation fee that's been established has been
15 essentially on a market basis, sort of a conventional
16 appraisal process, looking at past acquisitions,
17 current land values, and so on. That's analyzed and
18 described in the EIR-EIS. And the mitigation that's
19 been -- the mitigation fee that's been developed is
20 \$770 per acre. And essentially that would be paid at
21 the time of pulling a building permit or grading
22 permit prior to land disturbance.

23 MR. SMITH: What is that money used for?

24 MR. SCOTT: It will fund the plan. A
25 big part of that will be land acquisition within the

1 blue blob areas that Bill mentioned, the conservation
2 areas that have been developed in the plan. So that's
3 essentially to offset the impact and in a collective,
4 organized manner use the funds -- Bill might be go
5 into sort of how the overall administration of the
6 plan and the funding that will be used. And just a
7 side note here, that the fees, the impact fee that's
8 going to be developed from or derived from private
9 land development, clearly are not going to pay for
10 funding this whole program. It's a big program, a lot
11 of costs associated with implementation. And the plan
12 relies a lot on federal and state funding
13 contributions as well.

14 But this is basically what we think is an
15 appropriate level of private land mitigation to offset
16 the impacts of private land on the species over time.
17 And as Bill mentioned, it's three-tiered fee
18 structure, based on the ratio of impact in loss of
19 habitat.

20 There are areas that have minimal habitat
21 value, have minimal species occurrence, and their
22 compensation of one-half to one. So for every acre of
23 land disturbed, it's one-half of the mitigation fee or
24 \$385. In the areas that have more intact habitat and
25 have been shown to have species present on them, then

1 the compensation ratio is one to one. So for every
2 acre that's impacted, mitigation is at a comparable
3 acre of fees.

4 Then within the -- for impacts within the
5 conservation areas, the impacts are much higher there
6 because that's where the conservation is being
7 directed and designed. And that will be at a
8 five-to-one ratio. So they would pay five times the
9 per-acre price for every acre of land disturbance.

10 Do you have the other two handouts, as
11 well?

12 MR. SCHILLER: Who was the fee paid for?

13 MR. SCOTT: Ron, the fee will be paid to
14 each jurisdiction and each jurisdiction will then
15 collect -- that's what we are anticipating at this
16 point. Each jurisdiction would collect impact fee.
17 Same as we are doing with school fees. Many
18 jurisdictions will collect a school fee at the time a
19 building permit is issued, based on school impact
20 requirements.

21 We do the same thing. We put it into a
22 fund. Take that money and transfer it to the entity
23 we ultimately design for the administration of the
24 plan. It will go essentially into a pot for the
25 management of the plan.

1 CHAIRMAN KEMPER: I have a question, if
2 I may.

3 You know of my involvement recently with
4 the other ranchers. In Washington, I had an
5 opportunity to visit quite some time with a gentleman
6 that was involved with the structuring in Clark County
7 in regards to mitigation fees for, I think, 62
8 different species. And I think they probably have
9 been kind of the lead and have a program that seems to
10 be working.

11 My concern is I believe their current fee
12 structure is at about \$580 per acre, addressing all
13 these species, the tortoise being one of them. And of
14 course, that's probably one of the richest counties in
15 the United States and one of the most intensely
16 developed counties. But it appears that our fee
17 structure, and especially if it's designed to purchase
18 lands is maybe quite a bit higher here in San
19 Bernardino County and the other counties in California
20 which don't have near the income base for development
21 such as Clark County does.

22 And then the other item of concern is that
23 we don't have the availability, especially in San
24 Bernardino County, to buy private lands to mitigate
25 with. At last count -- I believe the figure that I

1 was given was less than 2 percent of the undeveloped
2 land in San Bernardino was under private ownership.

3 MR. SCOTT: Let me make sure I
4 understand your question. You are questioning that
5 this fee is too high compared to Clark County?

6 CHAIRMAN KEMPER: I guess my question is
7 how did we come up with a dollar amount, because if I
8 understand your math correctly, you are probably at
9 about \$2500, \$3000 an acre in the higher mitigated
10 category.

11 MR. SCOTT: No. Let me explain that.
12 Actually, the higher land values are really in the
13 areas of the cities, the developing communities, like
14 the high desert, Victor Valley area. That doesn't
15 affect the actual fee.

16 The fee is based on examples of either land
17 values or actual transactions that have occurred in
18 comparable habitat conservation acquisitions out in
19 the areas that would be within the conservation area
20 of the plan. So these are more remote locations, low
21 land values. And land that has either no
22 infrastructure, no services, limited access. Probably
23 low development potential.

24 At any rate, that is driving essentially
25 the land values lower for the mitigation fee as

1 opposed to warranting a higher value. But the ratio
2 is what establishes or derives sort of the higher
3 cost. So for impacts within the conservation area,
4 that's intended to be ultimately combined into -- for
5 conservation habitat purposes, then that would have a
6 higher impact so it has an a higher ratio of fee as
7 opposed to areas that have -- that are not intended
8 for conservation and have either limited habitat or
9 very minimal habitat. So these have either one to one
10 or one-half to one. So those have the low fee
11 associated with it.

12 So if it's one-half to one, you are talking
13 about \$385 an acre. One to one, \$770 an acre, and if
14 you are in low development potential but high habitat
15 value, then it's five to one or about \$4,000 or so an
16 acre.

17 CHAIRMAN KEMPER: I guess what my
18 question is, is are we setting the fee today, or are
19 we basing it upon replacement land which is market
20 driven?

21 MR. SCOTT: Well, we are setting it
22 based on current conventional appraisal methods and
23 examples of -- based on existing land values. It's
24 not projecting future land values. That gets pretty
25 speculative. But it's based on the land value of

1 areas targeted to be targeted for conservation, and
2 those are remote, isolated areas, generally.

3 CHAIRMAN KEMPER: The second part of my
4 comment was, in San Bernardino County -- I don't know
5 about the rest of the counties, but the county that
6 you and I are most familiar with -- there isn't a
7 whole lot of private land. We have lots and lots of
8 vacant land out there, and I think the impression is
9 that there may be more of that under private ownership
10 than there really is.

11 MR. SCOTT: Well, I would certainly
12 agree with you. When you look at the amount of
13 federal land either in BLM administration, Forest
14 Service Administration or DOD, Department of Defense,
15 it takes up a lot of the land base within San
16 Bernardino County. However, there is still a lot of
17 intermixed private land, particularly like the
18 checkerboard railroad lands, next to BLM areas. And
19 those would be the kind of areas that would be
20 targeted for acquisition in the conservation approach
21 and use of the mitigation fee.

22 So even though they may be relatively
23 small, they are important in terms of consolidation
24 and combining with federal land for the habitat value
25 and conservation strategy.

1 CHAIRMAN KEMPER: My next -- part of my
2 comment also was -- and I think you were right when I
3 asked how come it costs us more than Clark County -- I
4 think from your testimony, you are saying if you have
5 an intensive use, it could be as much as \$3,000 or
6 \$3,500 an acre where Clark County is \$580. And I
7 don't think anybody has any higher intensive use than
8 Las Vegas.

9 MR. SCOTT: I guess I'm not getting the
10 message across. It doesn't really relate to the
11 intensity of use. That's a constant. If there is
12 land disturbance of habitat, then it's based on just
13 the straight value per acre. And it's the number of
14 acres, not related to -- it doesn't differ by
15 residential, commercial, industrial use, whether you
16 are building a shopping center or small mini-mart or a
17 tract of houses. It only varies by the location
18 relative to the habitat value that exists. The areas
19 that are within the urbanized portion of the desert,
20 if you will, like Victor Valley, Morongo Valley,
21 Palmdale, Lancaster, Rosemont and so on, that are more
22 urbanizing, have less habitat value. And therefore,
23 they have only a half-to-one mitigation ratio. So
24 they are paying less per acre.

25 The areas in between, essentially sort of

1 the areas that are -- tend to be subdivided for
2 residential purposes and isolated commercial uses, are
3 at one to one, so they are paying straight \$770 per
4 acre, regardless of the kind of use. And the highest
5 ratio then is applied only in these remote outback
6 areas such as the Catellus lands, scattered
7 intermingled with BLM ownership, that would be
8 appropriate to consolidate.

9 And I might interject that the acquisition
10 is going to be based on willing seller, willing buyer
11 approach. The local jurisdictions would not be
12 inclined to try to condemn for these kinds of
13 activities or leverage purposes or any other way. So
14 that it's based on the interest of the property owner
15 in their selling to the habitat consortium, if you
16 will, that will be used to implement the plan.

17 We talked a little bit about these
18 criteria. And one of the sheets described the
19 criteria that were used in establishing the half to
20 one ratio areas. I will let you just read that and
21 just refer to that. We talked about that briefly,
22 which is the minimum mitigation requirement.

23 Also important to note, are activities that
24 are exempt from mitigation fees. And that's the one
25 that's slightly darker, kind of shaded handout sheet.

1 It identifies those activities on private land that
2 are exempt. And notably single-family residences and
3 associated assessor uses are exempt from the fee. So
4 any home that's being built on a legally subdivided
5 piece of property is exempt, in and of itself.

6 Where the fee would be exacted would be at
7 a subdivision process, say, the one example, the 10
8 acres. Ten acres is being subdivide into four
9 two-and-a-half-acre lots. That's the point where the
10 fee would be imposed and assigned with that activity.

11 I will let you read at your leisure the
12 other uses that are also exempt. But that's an
13 important aspect of the plan that we think helps make
14 it more practical and more applicable to existing
15 conditions for local jurisdictions.

16 I guess with that, I will conclude. But I
17 will entertain some more questions if you have any of
18 those.

19 MR. SMITH: Clark County has been able
20 to build up a substantial fund used for public
21 outreach programs for tortoise education. Do you
22 anticipate that that will happen here?

23 MR. SCOTT: We do. It's one of the
24 implementation strategies included with the overall
25 management. These fees will be aggregated, along with

1 other funding sources, federal funding, state funding,
2 and then a prioritization of essentially we anticipate
3 like an annual budget being prepared to talk about
4 public outreach, a variety of things, fencing, land
5 acquisition, numerous different implementation
6 procedures.

7 Maybe Bill could elaborate on that for you.
8 But we have all agreed and certainly through the
9 stakeholder Super Group process, that was an important
10 aspect of this is getting the word out, educating
11 people in terms of the value of not only the process,
12 the habitat conservation approach, and so on.

13 MR. SCHILLER: I'm curious. You
14 explained that the more rural areas --

15 MR. SCOTT: My arm is getting tired. I
16 think it's time to -- no, I'm just kidding.

17 MR. SCHILLER: The more rural areas
18 require more mitigation fees than the more urban
19 areas. Is there any part of consideration for as a
20 rural area becomes more urbanized on a sliding scale,
21 for the mitigation fees to focus the development in
22 those areas rather than in other dispersed areas?

23 MR. SCOTT: I think what we have tried
24 to do is establish a nexus between impact and fee.
25 And under present conditions. And as the areas, some

1 of these rural areas continue to develop and
2 development radiates out from some of these sort of
3 more urbanized cores, they will be more concentrated.
4 However, at the base line conditions right now we are
5 looking at in terms of habitat loss, both from not
6 only just the desert tortoise, but habitat in general,
7 species loss in the desert, that's where sort of the
8 greater impact is occurring.

9 So the mitigation is assigned commensurate
10 with that projected in the future. I don't know that
11 we will be able to look retrospectively once these
12 areas start getting more developed out and recognizing
13 those as sort of an urban, a new urban core or
14 localized urban area. I think if I understand your
15 question, that's what you are asking?

16 MR. SCHILLER: Well, the question was,
17 as an area becomes more urbanized, it has less value
18 as habitat, which would indicate to me that it would
19 require less mitigation fees. By doing that, then the
20 other areas that you are trying to protect as habitat
21 would be less attractive to development. So the
22 sliding scale would tend to concentrate your
23 development. I don't know if I am explaining myself
24 very well, but looking at the overall picture, that
25 seems to be something that might be considered.

1 MR. SCOTT: The point is well-taken and
2 we will have to take a look at that. I guess the
3 approach right now in the plan recommendations are to
4 stay with a definitive, delineated habitat
5 compensation strategy. People can walk in, look at a
6 map, and they know exactly what they are going to have
7 to pay at what point in time. And recognizing there
8 is going to be some change with growth over the years.
9 I'm not sure that it will -- it may cause more
10 problems than it's going to solve by trying to
11 adjust -- expand one-half to one mitigation area into
12 the one to one mitigation area.

13 Part of this is sort of projecting rate of
14 development and rate of compensation funds that will
15 be derived associated with that for administering and
16 implementing the plan. So it has kind of a double-
17 edged sword.

18 CHAIRMAN KEMPER: Lorelei.

19 MS. OVIATT: Lorelei Oviatt, Kern County
20 Planning Department. I'm the Kern County counterpart
21 to Randy Scott for the last nine years on the West
22 Mojave Plan.

23 Randy, I just wanted to expand on -- I
24 think I have an answer to Ron's question. I think the
25 part -- we based our urbanized areas on county general

1 plans. So in other words, we have urbanized cities,
2 but inside these counties, we also have what we
3 planners would probably characterize as unincorporated
4 communities, the community of Rosamund ^ check , the
5 community of Mojave. These are not cities. Do you
6 have some examples of those type of communities,
7 Randy?

8 MR. SCOTT: Newberry Springs, Lucerne
9 Valley.

10 MS. OVIATT: We are also talking about
11 those. Those are areas where there is already
12 established communities. These are places where
13 growth is going to occur. It's already been general
14 planned for it. It already has infrastructure. It
15 already has intentions, community plans, chamber of
16 commerce commitments. These are all places that are
17 looking over the next 20 years to grow. These areas
18 are half to one mitigation areas, just like cities.
19 Because they are not intended for habitat
20 conservation.

21 The idea behind a large-scale plan like
22 this is not to save every tiny, little island of
23 species. It's to contribute to the recovery of the
24 species in the areas where the species has the best
25 chance, based on our biological, scientific basis over

1 the next 20 years, and to redirect all the money
2 that's being spent into a concerted, coordinated
3 regional effort to do this.

4 So your point, the place where it would
5 change is the one to one, as the plan is adaptive. If
6 they do these clearance surveys and after a few years
7 we discover that in a clearance survey one to one, for
8 whatever reason, we made the wrong decision on the
9 habitat, we have a review process after every five
10 years in the plan to reevaluate that. And maybe it
11 would go to half to one at that point.

12 The other issue, Ron, is that -- that's an
13 excellent point on the Clark County. And we will
14 incorporate in the response a discussion of that.

15 Clark County has a huge economic engine.
16 And the intention in that habitat conservation plan is
17 it's all funded by development. The mitigation fees
18 are a tiny portion of the money needed to support this
19 plan. This is not a plan -- this is a new, unique
20 plan. It's not intended that the mitigation money
21 fund this plan. And so we are going to look at the
22 difference in that value per acre, but I just wanted
23 to add that, Randy, that that's kind of a missing --
24 it's intended to mitigate for the take on those
25 private properties by acquisition of replacement

1 habitat. Okay?

2 MR. SCOTT: Good point, Lorelei. Thank
3 you.

4 CHAIRMAN KEMPER: Lorelei, just to be
5 clear, my concern is that it's available to be
6 replaced because of the shortage of private holdings
7 in these counties.

8 MS. OVIATT: That's also an excellent
9 point that we need to look at. We need to look at.

10 MR. SCOTT: I don't want to beat a dead
11 horse here, and my arm is getting tired, but I will
12 point out just on this map, from a distance, it
13 provides a good perspective because all the white area
14 is essentially area that is not targeted for
15 conservation. It's recognized that that's the
16 urbanizing portion of the West Mojave Desert. That
17 incorporates essentially all the private land,
18 excluding those that are these isolated parcels within
19 the blue blob, if you will. And those are the areas
20 that are certainly limited in total. But relative to
21 all the private holdings within the West Mojave, those
22 are essentially being targeted for or identified as
23 development under normal private land development
24 practices, as opposed to having any value for
25 conservation.

1 So we think it's a more effective, more
2 efficient approach. Lorelei mentioned all the various
3 and sundry fees or compensation strategies or
4 mitigation requirements that are being imposed right
5 now. And this consolidates all that into one
6 manageable, what we think is probably a more
7 understandable system.

8 CHAIRMAN KEMPER: Once again, I don't
9 want to beat a dead horse, but even in the white
10 areas, there is no shortage of public land. The
11 majority of those areas is public land, even though
12 it's not being considered for conservation or being
13 needed. I don't want to leave the audience with the
14 impression that all that white area is privately owned
15 property.

16 MS. OVIATT: That's correct.

17 MR. SCOTT: You are right. There are
18 some interspersed BLM parcels in there within that
19 private -- or within the white delineation. Any other
20 questions? Okay. Turn it back to Bill.

21 MR. HAIGH: All right. Thanks, Randy.

22 How are we doing on time as far as breaks
23 and everything? I have Ed LaRue and Larry LaPre to
24 give short talks and answer your questions on --

25 CHAIRMAN KEMPER: I have 11:51 on my

1 clock. I have been asked by two Council people that
2 they do have to do some business at the noon hour. So
3 I'm going to break sharply at noon, so if we can take
4 one of them and then continue them after lunch, if
5 that would be possible.

6 MR. HAIGH: All right. I think what I
7 will do is maybe go with Larry LaPre because Ed has a
8 Power Point and can set up over lunch. Do you want to
9 take a shot at carbonates or something?

10 CHAIRMAN KEMPER: While he is moving to
11 the podium, I think we are scheduled for an hour and a
12 half lunch. If everybody is agreeable to shortening
13 it to an hour, is that okay, so we can get back on
14 your time schedule?

15 MR. LA PRE: My name is Larry LaPre.
16 I'm a wildlife biologist with the Bureau of Land
17 Management in a term position which is dedicated to
18 preparation of the West Mojave Plan.

19 My responsibilities have to do with the
20 other species; that is, anything that's not a desert
21 tortoise or a Mojave ground squirrel. The supervisor
22 is Bill Haigh, the boss is Linda Hansen. I also am in
23 the outreach division. My other supervisor is Steve
24 Razo, who is in the back.

25 CHAIRMAN KEMPER: You have to remember,

1 it's designed to make your arm tired.

2 MR. LA PRE: I'm tired already.

3 Within the outreach, I mainly contact
4 equestrians, local government, environmental groups,
5 mining, utilities, and Caltrans. I am not in regular
6 contact with developers, grazing interests, and as for
7 off-highway vehicles, we have Les Weeks who is an
8 outreach consultant. But I help people who ask me for
9 information on routes of travel the best I can. And
10 of course, I'm constantly in touch with the Fish and
11 Wildlife Service and Department of Fish and Game.

12 So as you saw, the West Mojave Plan has two
13 major divisions, the federal side and the private land
14 side. Most of the conservation is on federal lands.
15 But the species are scattered with respect to
16 ownership. Some species are entirely on federal
17 lands, and therefore, are entirely conserved by
18 federal policies.

19 Others are entirely on private lands, and
20 therefore, there isn't a lot the BLM can do. And they
21 become almost the sole responsibility of the HCP
22 portion of the West Mojave Plan. That is to say,
23 private land reserved for species that are found only
24 on private lands.

25 Some are almost entirely on military lands.

1 And for those species, we don't depend on military
2 protection, but we recognize the integrated National
3 Resource Management Plans that the bases have. Where
4 they occur outside the base, it's our own
5 responsibility, "our" being the private and the BLM,
6 to provide some conservation outside of the bases.

7 Then there is the mixed ownership where the
8 species is on both private and federal lands. And the
9 emphasis there is to conserve on federal lands, but
10 where there is a checkerboard pattern such as between
11 Edwards and Fort Irwin, it's a joint venture, like you
12 heard with the five-to-one mitigation ratio. So since
13 this is the Desert District Advisory Committee, I'm
14 going to focus on what the BLM is doing for
15 conservation on its land.

16 We have species measures that cover
17 programs across the board for grazing, for mining, for
18 recreation access, otherwise known as route
19 designation, mitigation for specific projects, and a
20 number of planning measures. I am going to highlight
21 the ones that are red flags in the plan to try and
22 direct your attention to the important issues that you
23 should be aware of and could give advice to the
24 district manager on.

25 First, under grazing -- and of course, I'm

1 talking about other species and not the tortoise so
2 much. There are two areas that are standouts. One is
3 in the Eastern Sierras and a lot of Inyo County and
4 part of Kern County. And it has to do with cattle
5 grazing. In those areas, there are some rare plants,
6 but the real conflict in some years is the riparian
7 areas. And what we are doing in the West Mojave Plan
8 to address that is not elimination of allotments or
9 anything like that. But it's following the national
10 programs of rangeland health and doing these rangeland
11 health assessments. And that's out of my area of
12 expertise. But our range conservationists work with
13 the ranchers to move the cattle around, seasonal
14 grazing, moving between different pastures. They do
15 things like that to achieve this rangeland health
16 standard.

17 The other national program is riparian
18 standards that are set for protection of waterways and
19 making sure they don't get overgrazed. So that's what
20 we are proposing to achieve with the West Mojave Plan
21 for the East Sierra Canyons where there has been some
22 conflict with cattle grazing.

23 Then the other hot area has to do with
24 sheep grazing. It maybe is not that big of a problem
25 because it's kind of small, but it's in the Brisbane

1 Valley, in between Route 66 and Interstate 15 between
2 Barstow and Victorville.

3 And on public lands in that area, we
4 propose to eliminate sheep grazing because -- on
5 public lands, and it's in an area of protection for
6 the Mojave monkey flower, a local endemic plant, which
7 has a very restricted range. It's impacted heavily by
8 sheep grazing as well as a number of other threats.

9 Those are --

10 CHAIRMAN KEMPER: If I can take just a
11 minute. We have about reached the 12 o'clock hour.
12 How much time do you need?

13 MR. LA PRE: There is no possibility of
14 finishing in five minutes.

15 CHAIRMAN KEMPER: Can we take up after
16 lunch? Would that be okay, at a comfortable place for
17 you to leave off and then start up again?

18 MR. LA PRE: Okay. This is a
19 comfortable place. My next topics would be, to follow
20 what I outlined, highlight mining, then recreation,
21 then mitigation for project, and then planning issues.

22 CHAIRMAN KEMPER: Okay. If it's okay
23 with the group, we will take up after lunch. We will
24 break for one hour. Thank you very much. Sorry to
25 break you off in midstream.

1 (Lunch recess taken.)

2 CHAIRMAN KEMPER: If we can continue
3 with our presentation at this time, it would be much
4 appreciated.

5 MR. LA PRE: Thank you.

6 Members of the Advisory Council, I am not
7 trying to bore you with a long presentation, but I do
8 want to highlight the major issues under the topics I
9 have responsibility for.

10 I already have said something wrong with
11 respect to grazing, and that is grazing has not been
12 my direct responsibility other than sending 250 pounds
13 of West Mojave Plans to the allottees. But we have
14 plenty of meetings with grazing allottees with Anthony
15 Chavez and Kim Allison and Sam Pittons and our grazing
16 lead, Larry Morgan, and wildlife biologist for the
17 district, Larry Foreman. So I didn't want you to
18 think because I said it's not my responsibility, that
19 we had not had contact with the grazing people.

20 CHAIRMAN KEMPER: Just a point for
21 clarification. If we have given you the impression
22 that we thought your presentation was long and boring,
23 we apologize because we very much want to hear it.

24 MR. LA PRE: Thank you, sir.

25 The next topic that I wanted to address is

1 mining and what the West Mojave Plan has in store for
2 mining, highlighting the big issues. And the biggest
3 effort has been with carbonate mines on the north
4 slope of the San Bernardino Mountains above Lucerne
5 Valley, an area with four threatened and endangered
6 plant species, an area where the plants cross the
7 jurisdictional line between the Forest Service and the
8 BLM-managed lands. And the main mines now are on
9 private lands.

10 There has been an inter-agency effort for
11 the last three or four years that has resulted in a
12 document called the Carbonate Habitat Management Plan
13 strategy. And it is, in fact, a strategy of things
14 that you could do in the future to provide
15 conservation for the rare plants and lands for mineral
16 development.

17 The West Mojave Plan implements part of
18 this strategy by creating a new area of environmental
19 concern east of Highway 15 above Lucerne Valley by
20 allowing land exchange for surplus BLM lands that can
21 be traded for fee title lands owned by mining
22 interests which contain the rare plants. And to a
23 very minor extent, by route designation, meaning that
24 some of the dirt roads going up in the carbonate area
25 which is declared critical habitat will be designated

1 as limited access, meaning limited to holders of
2 mining claims.

3 The Carbonate Habitat Management Strategy
4 will have its own biological opinion. The leader has
5 been the San Bernardino National Forest, but it
6 involved separate informal committee meetings between
7 the major mining interests, the Bureau of Land
8 Management, the Fish and Wildlife Service, and the
9 California Native Plant Society representing its
10 interests and some of the other environmental group
11 interests.

12 Other mining issues. We looked at selected
13 mineral withdrawals in different parts of the desert.
14 And that created dissension within our own
15 organization because you can make mining compatible,
16 given the right conditions, and withdrawal is not
17 necessary in most cases. So what started as a wish
18 list of withdrawals from agencies has turned into a
19 few specified withdrawals. Two were already
20 previously contemplated and are not controversial.
21 And that is within the Afton Canyon ACEC and the
22 Western Rand Mountains ACEC. In the Western Rand
23 Mountains, the withdrawal excludes some of the
24 building stone material sites, the quarries there.

25 There is a proposed withdrawal in the area

1 where the Lane Mountain Milk Vetch is found. It's
2 moderate-to-low mineral resource value. It's not
3 affecting any big commercial miners, but it is
4 controversial. And the area where the Lane Mountain
5 Milk Vetch occurs is a popular area with club mining
6 where rock hounds and mining clubs go out and run dry
7 washers, where they dig up the soil, run it through a
8 dry washer and have gold come out in a little pan with
9 waterless process. We have examined those claims and
10 those claims by clubs in the Lane Mountain Area and
11 almost all of them are not within the conservation
12 area or the mineral withdrawal, but some are, a few.

13 If we don't withdraw there, we and the Army
14 will have a problem with our biological opinion. The
15 Lane Mountain Milk Vetch is a very rare plant, very
16 restricted range. There is quite a lot of plants, but
17 very few acres.

18 We worked out a deal, you might say, with
19 the miners in the Brisbane Valley, the Oro Grande
20 area. And that's heavily mineralized and it's Scott
21 TXI, Riverside Cement, Victorville Industrial
22 Minerals. So they mine limestone, quartzite, clay
23 deposits there, sand and gravel deposits there.
24 Byproducts of silver at some of the mines. And it's
25 an area where the Mojave monkey flower is found. This

1 is a non-listed species, very restricted range.
2 Something needs to be done or it will become an
3 endangered species.

4 And in that area we have designated
5 conservation lands on the public lands. And then
6 within the mining area, the miners are free to develop
7 their own mitigation bank. That is to say, they will
8 set aside lands that have the monkey flower and that
9 they don't intend to mine. And that will be their
10 contribution to conservation of the monkey flower.

11 At Trona, the chemicals, they have done
12 their own deal with Department of Fish and Game for
13 the Snowy Plover.

14 CHAIRMAN KEMPER: If I may, I think you
15 have a question from one of the Council members.

16 MR. BUGERA: I would like to know what
17 you mean by nonlisted. You said the monkey flower is
18 not listed.

19 MR. LA PRE: The monkey flower is not
20 listed by the Department of Fish and Game or Fish and
21 Wildlife Service as threatened or endangered or rare.
22 It's one of those other species known to be declining
23 that we need to address so it doesn't become listed in
24 the future.

25 At Trona, where the Trona Mining takes

1 place and borates, the company has done its own deal
2 with the Department of Fish and Game for the Snowy
3 Plover, a small bird that's one of our nonlisted
4 species. And we have designated roads that went out
5 to the lake bed, formally called open. We have
6 designated those as limited. And that's basically for
7 safety reasons because if you were to take that road
8 which crosses public land and goes onto the lake bed,
9 you will be at risk from the mining trucks. That was
10 basically noncontroversial in response to their
11 letter.

12 We did the same thing a little differently
13 for US Borax, who in the route designation process
14 pointed out that we were closing a road to their
15 active mining claim. It's an active claim, but it's
16 not an active mine. So we either reopened the road in
17 one case, or made it limited access in another case.
18 And we also did that for mines exploration in Red
19 Mountain. That's it for mining.

20 MR. BROWN: Howard Brown.

21 On the area where your proposed withdrawal
22 is for the Milk Vetch, you indicate there was some
23 overlap between the area where the mining is and the
24 habitat. Is there mining claims within the area
25 proposed for withdrawal?

1 MR. LA PRE: Yes, there are. And the
2 withdrawal process has its own complicated set of
3 regulations, as you know. On those we will either
4 determine the validity or make a deal with the claim
5 holders to make the withdrawal effective.

6 MR. BROWN: Thanks.

7 MR. LA PRE: For the most part, this
8 plant grows on shallow soils underlain by granite.
9 And fine gold deposits that the dry washers use are in
10 the deeper alluvial soil where it's washed down from
11 the mountains or come up from the hydrothermal process
12 from the center of the earth.

13 MR. RISTER: Do you have any oil, gas,
14 or geothermal leases that this will affect?

15 MR. LA PRE: I don't know of any oil,
16 gas, or geothermal leases. I know right at the
17 boundary of China Lake, where the Koso geothermal
18 operations are, is within the range of the Mojave
19 ground squirrel. But I don't know of any measures
20 that we have done to affect oil, gas or geothermal.

21 On recreation, I'm going to be pretty
22 brief, since we had the whole discussion this morning
23 and the separate environmental assessment, and it's a
24 topic in a way for plenty of other meetings. But for
25 the other species other than tortoise and ground

1 squirrel, access is only limited really in places
2 where there is occupied habitat for a listed
3 endangered species, or where there is critical habitat
4 for a listed endangered species.

5 In the route designation environmental
6 assessment, we had a number of letters from people in
7 the Juniper Flats area, which is just south of Apple
8 Valley, mostly having to do with noise and trespass on
9 private property. A few had to do with roads crossing
10 riparian areas. And we have closed some of those that
11 crossed the riparian areas, but access is available
12 parallel to them, so you can still walk down to the
13 water within an eighth of a mile.

14 My next topic was mitigation for projects,
15 a BLM project like a wind farm or communication site.
16 Bill already described that to you. The BLM will do
17 the same as the private property with respect to the
18 mitigation ratios. If you are in a conservation area,
19 you can still do your project, but you will have to
20 provide the five-to-one mitigation ratio. Other
21 places with one-half-to-one or one-to-one.

22 Then the last topic I had was planning, and
23 that's really the area I have been working in for the
24 last six years. For that we have stipulations on
25 utilities. Basically, you restrict the larger

1 projects to the established utility corridors, and
2 prescribe procedures for how they build their
3 pipelines or power lines. And avoid the sensitive
4 species.

5 We have established new areas of critical
6 environmental concern. And in each of the special
7 conservation areas outside the DWMAs, outside the big
8 blue blob, there are about five or six conservation
9 areas. Each of those will become an area of critical
10 environmental concern. That's the part of FLPMA that
11 gives BLM the best methodology for conservation. They
12 are not very big, and a number of these ACECs are
13 within the tortoise conservation area. And
14 prescriptions for them depend on what's there.

15 For example, if there are routes of travel
16 through there, which there are, they generally don't
17 impact a rare plant that doesn't grow in the middle of
18 the road. So those things stay the same. On the
19 other hand, there could be restrictions against a new
20 communication site or wind farm or something like that.

21 In one case in the private sector only,
22 near Lancaster in Los Angeles County, a little bit of
23 Kern County, we are working on creating a conservation
24 area for the Alkali Mariposa Lily, which is primarily
25 found at Edwards Air Force base but extends all around

1 the edges of the base. And I think we have a win-win
2 deal going where the conservation area can be along
3 the edge of the -- the boundary of the base and
4 therefore provide an encroachment buffer which the Air
5 Force is quite interested in, plus this plant grows in
6 poor soils where the land value is not as high. It's
7 not as developable.

8 Almost all species of the other species
9 would no longer have bio reports, focus surveys,
10 special biological studies required of developers,
11 whether on private or BLM. There are a few cases
12 where that stays in effect. One of those is the
13 burrowing owl, a small raptor who tends to be found in
14 the middle of city jurisdictions.

15 And the Fish and Game code does not allow
16 you to kill a burrowing owl. So those will continue
17 to be surveyed and relocated. For very endangered
18 species like Lane Mountain Milk Vetch and Triple
19 Ribbed Milk Vetch, these milk vetches are quite
20 specialized and very interesting -- quite annoying if
21 you want to do something. There are some survey
22 requirements for a few of those. Are there any
23 questions?

24 MR. RISTER: You indicated that on new
25 projects for power lines, gas lines, you were going to

1 have mitigation. What are you doing for maintenance
2 for power transmission lines, fiber optics, gas lines?

3 MR. LA PRE: The West Mojave Plan, the
4 biological opinion on the plan will serve as a
5 programatic maintenance agreement for all those
6 existing utilities that are within the utility
7 corridors. And the conditions of the opinion are --
8 at least we expect -- are the same as we have in the
9 plan.

10 And that's -- the way that's done now is,
11 for instance, Southern California Gas Company, at the
12 beginning of the year, they submit to the BLM a list
13 of the projects they are going to do: Replace a pump
14 station, dig up a piece of pipe. Then when they go do
15 it, they have someone go look for tortoises, for
16 example. And at the end of the year they report what
17 they have done. So we believe that for the big
18 utilities, it's a better situation, the set of
19 standard stipulations, standard reporting that
20 hopefully will become routine.

21 MR. RISTER: Does that also include
22 Caltrans and county road systems?

23 MR. LA PRE: Yes. As long as you are
24 not doing new pavement or going way off the road. The
25 standard maintenance of clearing the shoulders and all

1 that is covered.

2 CHAIRMAN KEMPER: Paul.

3 MR. SMITH: Could you elaborate on these
4 proposed special review areas and particularly with
5 reference to the ones north of 62 and east of 247?

6 MR. LA PRE: Okay. The special review
7 areas started out as being places where there still
8 are a lot of desert tortoises. But they are not
9 conservable. They are isolated from other tortoise
10 populations, or they are surrounded by cities or
11 highways. In the long run, it's not an area that
12 could be managed for conservation.

13 North of Highway 62 and other areas right
14 near Joshua Tree National Park, we added a special
15 review area for the Little San Bernardino Mountains
16 Linanthus, a tiny plant that's quite rare, not listed
17 as endangered -- it qualifies as an endangered species
18 now, but it's one not too hard to deal with. It grows
19 on the banks of desert washes, dry washes, out to a
20 distance of about 100 feet. And for that plant, the
21 special review is to have setbacks for development
22 along the floodway, which matches the existing county
23 procedure, you might say, except it goes a little bit
24 further out.

25 Special review means in those areas you do

1 have to pick up your tortoises and relocate them. It
2 wasn't entirely my responsibility, other than the
3 Linanthus. I'm not sure I can remember all of the
4 things you do, but they have to do with moving
5 tortoises out of harm's way if you are building in
6 that area, because there are areas with high tortoise
7 populations still.

8 CHAIRMAN KEMPER: Preston Arrow-Weed and
9 then Bill Betterly, and then I have a question from
10 Lorelei, I believe.

11 MR. ARROW-WEED: I keep hearing desert
12 turtle and squirrel. Now, are the Mojave people
13 involved in this? Needles?

14 MR. LA PRE: I personally only met with
15 29 Palms Band, and we discussed plans of their
16 foundation to acquire lands, actually, just outside
17 the West Mojave. But they have ancestral lands all
18 through the area and lands they own right outside
19 Joshua Tree National Park headquarters. The Native
20 Americans, who are not my responsibility, but I know
21 that there was coordination among our archaeologist
22 Joan Oxingdine (phonetic spelling), and she contacted
23 all our tribes, and there are only about four that are
24 within the boundaries.

25 MR. HAIGH: Eight.

1 MR. LA PRE: Some of them had ancestral
2 boundaries that were mostly outside the West Mojave
3 but extended into. For instance, the Timbisha Tribe
4 is getting lands in the West Mojave north of China
5 Lake as part of congressional -- I think it was a
6 congressional act allowing them to establish
7 facilities in Death Valley. Part of that was also to
8 get some lands north of China Lake for their use.
9 Bill might be able to answer your question better than
10 I, Preston.

11 MR. HAIGH: Bill Haigh, project manager.
12 We contacted eight or nine tribal governments during
13 the course of the plan. There were two or three big
14 mailouts by our archeologists. They were followed by
15 telephone calls to tribal chairs and other
16 representatives in the group. As a result of that, we
17 got two or three pieces of correspondence back from a
18 couple of the tribal governments saying keep them
19 informed.

20 We were invited, as Larry said, to go down
21 to Indio and speak to one of the groups down there at
22 their invitation after we had contacted them. So we
23 tried to keep in regular contact all the way through
24 the process.

25 MR. ARROW-WEED: I was talking Mojave

1 Needles, because you are talking about all the way to
2 Indio and all the way that way. They have a part of
3 that too, and another thing is that turtle. The
4 Mojaves have a very important story about the turtle.

5 A creation story that to goes to religion.
6 The squirrel has a very important part in religion.
7 See, we are a Hoka-speaking group. You must remember
8 that. The Hoka spreads from Northern California
9 almost into this area into Baja. We have occupied
10 these areas. We have been through it. And that
11 turtle is in the Mojave -- Fort Mojave at Needles,
12 they have a story in their beliefs. The squirrel is
13 also in there, all going to the creation story about
14 their creator.

15 And that's religion, the freedom of
16 religion. When you are talking about getting rid of a
17 whole bunch of turtles and relocate them from where
18 they have been placed by a government, that's open to
19 something else, you know. I think we should -- I
20 should inform the people at Fort Mojave and my own
21 people, because since we are Hoka-speaking group, we
22 have almost -- we share the same creation story. And
23 I will tell about the squirrel and that and why we
24 should take part in this and your meetings that you
25 have. Maybe they weren't there or something like

1 that. But I keep hearing that.

2 I'm just listening, and I hear that turtle
3 and that, and then someone had made comments earlier
4 saying that they should always inform Native American
5 people because they were here first. They should hear
6 it and be able to make their comments. But I know a
7 lot of them don't make it -- I don't know why. But I
8 know we should do that. I will try every way I can to
9 let them know.

10 But I think that's something I haven't
11 heard yet, Native American concerns in whatever you
12 are doing, or religious values. That's all we can go
13 on, religious values, because we cannot think of
14 economic values or material values, but it only goes
15 back to religion.

16 CHAIRMAN KEMPER: One of the things that
17 I would like to share with Preston is that that is
18 probably one of the main reasons why we have a Native
19 American member on our council. And we are all very
20 happy to have a Native American representative that
21 will actually be able to provide the time to attend
22 the meetings. We have always had a Native American
23 representative, but not one that has attended
24 regularly. So we are really happy to see you here and
25 hope that you will attend all the meetings.

1 MR. LA PRE: What I was just going to
2 say, I'm very happy to hear what you said. We took
3 the Advisory Council out to the West Mojave -- time
4 flies -- probably two years ago. Richard Molanovich
5 was there and we were looking for the Lane Mountain
6 Milk Vetch, and he is a sharp-eyed guy, found new
7 ones. He expressed the same things that you did with
8 respect to the symbolism of the turtle and the need
9 for keeping areas of religious significance intact.

10 CHAIRMAN KEMPER: Mr. Betterly.

11 MR. BETTERLY: Ed, I've got a lot of
12 difficulty with this plan in a couple ways. But when
13 you mentioned the monkey flower and you mentioned the
14 sheep grazing and you mentioned the cattle grazing,
15 you know, I don't think there is a part of any part of
16 this plan that for the last 150 years hasn't been
17 grazed. And yet, today we are worried about this
18 monkey flower plant or bowl or whatever it is, and
19 that's probably been around for years in the same spot
20 and it's going to be here for years again in the same
21 spot, whether it's grazed or not grazed. Just grazing
22 it doesn't kill it. It really spreads it.

23 MR. LA PRE: It's true what you say.
24 Virtually the entire area has been grazed for 150
25 years, probably most of it except the real rocky and

1 so forth.

2 One of the things is that the population
3 has grown so much that now you don't just have
4 grazing. For instance, in the Brisbane Valley area,
5 you also have mining, you have the landfill.

6 MR. BETTERLY: But you have had that for
7 150 years, all of those. Power lines, maybe not. But
8 you have had the mining for that long. You have had
9 the grazing for that long. And now it's my
10 understanding that there are going to be utility
11 corridors where it's the American public that's going
12 to have to suffer because you are going to try to make
13 them all go into a corridor where it would be half the
14 dollars to go in a shorter route. Is that taken into
15 consideration?

16 MR. LA PRE: I don't think there is
17 anything new on the utility corridors, at least for
18 the major transmission lines. The electric
19 transmission lines that's anything over 110 KV has to
20 stay in the utility corridors. It's been that way
21 since the Desert Plan. Now, the small distribution
22 lines can go wherever they want to go, and it's almost
23 always down the established roads. The interstate
24 pipelines stay within the corridors, and usually
25 that's okay with them because they are going through

1 several states. And it's not longer distance, as long
2 as they can get through. If they have a need to go
3 outside of a corridor, then they apply for rights-of-
4 way and so forth with the BLM and can still do so, but
5 it would require a plan amendment. And it may be a
6 little harder for them.

7 CHAIRMAN KEMPER: Lorelei, your question
8 has been answered? Okay. Ron Schiller.

9 MR. SCHILLER: Ron Schiller. Just a
10 couple of points I would like to clarify. Did you
11 indicate that burrowing owls are going to be
12 relocated? Is that what I understood you to say?

13 MR. LA PRE: That's what I said.

14 MR. SCHILLER: The other question I
15 have, as I look at this map, I see a lot of other land
16 here that includes Death Valley, Mojave National
17 Preserve, Joshua Tree, military, and other adjacent
18 lands, but I see no habitat marked in there for the
19 owl. Is that not considered at all in this plan, even
20 though it's likely habitat?

21 MR. LA PRE: We certainly consider the
22 value of the existing wilderness, existing areas of
23 critical environmental concern, and most definitely
24 Joshua Tree National Park that are within the planning
25 area. The widespread species that are out in Mojave

1 National Preserve and in Death Valley National Park
2 and areas outside of the plan, you might say we
3 provide less conservation for them because they are
4 less at risk. We get the good spots for them within
5 the West Mojave, but are not so strict about it as we
6 are with some species that's found only in the West
7 Mojave.

8 Now, for the military, we can't count on
9 military conservation, even if they are conserving.
10 They have told us that, that the mission may change.
11 They may have to change operations at Edwards and put
12 in a new runway. We don't know what their needs would
13 be in the future. So we recognize what they are doing
14 now, but any conservation in the West Mojave Plan has
15 to be outside of their boundaries.

16 MR. SCHILLER: But in the overall
17 picture of conservation or sustaining the species, how
18 do those populations relate to this plan in the
19 overall picture?

20 MR. LA PRE: I think I understand your
21 point. And in the Environmental Impact Statement, we
22 go methodically species by species, what's the impact
23 of this and what's the impact of that and try and
24 answer those questions on a range-wide basis for that
25 species. And not make this the only area where that

1 is conserved or not recognize large national parks
2 where that is conserved.

3 I believe that for the most part, we have
4 done what you are saying. We would be glad to take a
5 better look at that for any species or all of them if
6 you want to point out that we are putting too much
7 emphasis on some species found all the way across the
8 United States.

9 MR. SCHILLER: At least it should be
10 considered as part of the overall management of the
11 endangered species.

12 CHAIRMAN KEMPER: Jon.

13 MR. McQUISTON: The statement you made
14 about you can't plan on military lands when looking at
15 conservation. Was that essentially what you said?

16 MR. LA PRE: Yeah. The rules of habitat
17 conservation plans allow you only to operate within
18 your boundaries. The military told us we are not in
19 your boundaries. They are within the planning area,
20 but they said we cannot guarantee for 30 years, the
21 life of this plan, that our Woolly Sunflowers and our
22 Mariposa Lillies and our tortoises will be in the same
23 shape they are in now. That is, managed the same way
24 by the military.

25 MR. McQUISTON: Okay. How does that,

1 then, relate -- and I will use the plan that the
2 Department of Navy is circulating now, their
3 comprehensive land-use plan where I think you are
4 looking at out of the 1.1 million acres, less than
5 5 percent disturbance. And they are conducting an
6 environmental study that will look at increases in op
7 tempo, but they are somewhat imposing still this
8 5 percent constraint. And if they go beyond that,
9 then it would reopen some sort of review process.

10 How would that relate to this, if at all?
11 In other words, out of their 1.1 million acres, if
12 there is less than 5 percent disturbance, why is that
13 not something that can be looked at in terms of
14 species conservation in the bigger picture,
15 particularly if they are going to expand beyond that?
16 It would open up another environmental review on their
17 part.

18 MR. LA PRE: What will -- for one thing,
19 at China Lake, the species that they conserve and
20 which are important to the West Mojave Plan, one is
21 the Inyo California Towhee, which their operations do
22 not disturb, almost to any extent. Others are three
23 or four species of bats where they have maternity
24 colonies and bat caves, which they have already
25 protected. We are hoping it stays that way.

1 So I consider that a two-part question.

2 Will their new operations cause any problem to us?

3 The answer to that is no.

4 And then, the other part is, are we
5 recognizing the conservation that they have, because
6 they have falcon aeries, eagle aeries, bat roosts. I
7 would say yes, except they have told us not to count
8 on it.

9 MR. McQUISTON: But if they cannot
10 change their management practice without invoking
11 another environmental review, why would that not be
12 something you could rely on, even though they won't
13 necessarily make a statement that our op tempo is
14 rigid and we are never going to consider changing it?

15 MR. LA PRE: That's a good point. We
16 could look into that because their plans are five-year
17 plans and our review period is a five-year review. We
18 haven't made that correlation, and I very much
19 appreciate that remark. We would have to talk to the
20 Navy and say, are you going to stick with your plan?
21 And they will say yes, because if they don't, they
22 have to --

23 MR. McQUISTON: I think that would be
24 worth pursuing, because what I understood was in
25 terms of our conservation off their base, we can't

1 really rely on what they are doing on their base
2 because they said this. But if in fact they have a
3 plan that's subject to NEPA review that has to be
4 reviewed every five years consistent with ours, there
5 may be an opportunity to do the very thing that you
6 can't get a public statement out of them because
7 nobody has a crystal ball.

8 And perhaps there is an opportunity for
9 conservation credits to some extent, because you both
10 have land management plans that are subject to federal
11 review processes, and presumably they are part of a
12 lot of the discussions that are going on with respect
13 to conservation.

14 MR. LA PRE: That's a very good point.
15 And in the review, you always find out new things
16 about these species. Five years from now, the Inyo
17 California Towhee may be recovered. It's always been
18 a small population, but they are doing well. They met
19 for at least one year the goals of the recovery plan,
20 and therefore, could start being delisted. If we
21 could coordinate things like that on a five-year
22 basis, that would be beneficial all the way along.

23 MR. McQUISTON: I think it would be
24 worth pursuing, and you may have some flexibility at
25 China Lake that you don't have at Edwards, because

1 Edwards has less land and more of it is disturbed.

2 Fort Irwin, on the other hand, has a lot
3 more land, but because of the activity that goes on,
4 most of it is on the land. Whereas at China Lake, the
5 vast majority of it is undisturbed. It's a safety
6 buffer.

7 MR. SCHILLER: I would just like to make
8 one brief point. If I understand the Desert
9 Protection Act correctly, that act actually made the
10 military land at China Lake with withdrawal of BLM
11 land and directed the BLM to do the management plan,
12 which would indicate to me that it's BLM's
13 responsibility for the habitat, even though there is
14 the MOU with the Navy to write the plan. I think the
15 ultimate authority still belongs to the BLM according
16 to law, if I understand correctly.

17 MR. LA PRE: That's the same as my
18 understanding, but to get a definitive answer, I would
19 have to talk to the boss or even the boss's boss.

20 MS. HANSEN: The boss would have to
21 research that one.

22 MR. MCQUISTON: The legislation in the
23 California Desert Protection Act gave overall
24 responsibility to the Department of Interior, which
25 could be delegated to the Department of Navy. So

1 whatever plan they have is subject to review by
2 somebody in DOI. And it ought to be an opportunity to
3 bridge some of these conservation issues.

4 MR. LA PRE: Yeah, maybe we could use
5 that part of the legislation to engage each other. I
6 have looked into that very question, Ron, and it's at
7 a higher policy level than I can make any decision on.

8 MS. HANSEN: Larry, I would add,
9 however, that we did coordinate -- the Bureau has been
10 briefed on the plan, the Navy's plan, and we do
11 coordinate with them on those plans. And therefore,
12 we do have a nexus to what they do.

13 I think what Larry is stumbling with a
14 little bit is that because they are in the process of
15 completing that plan, it's not that we didn't consider
16 what's going on at China Lake. I think in terms of
17 conservation of species, we know those activities are
18 occurring there. We do at least have a legal mandate
19 to deal with some of that.

20 However, I don't think we wanted -- they
21 didn't want us to use that as being the basis for not
22 addressing those DC's on BLM public land. But Jon, I
23 also agree, you bring up a good point. We are on a
24 similar kind of review time frame. Certainly NEPA is
25 required for changes in all of them. I think what we

1 heard from the Navy when we talked to them about their
2 plan is that their mission could change overnight
3 based on current events in the world, and at that time
4 we had not quite gone to war in Iraq.

5 I think they believed it was important that
6 they had enough flexibility. They also get some
7 special dispensations for being in the military when
8 they need to take emergency-type actions that would
9 not necessarily leave their change open to public
10 review through a NEPA process. And in that case, I
11 think it's relevant to say they could have a change in
12 the activity out there without anybody having a say
13 outside of the military.

14 MR. McQUISTON: I'm encouraged that
15 there is some interest in looking at this. Mine is
16 very focused, and that's being able to -- conservation
17 measures that they have in place, in being able to get
18 some credit for that in the overall management of the
19 species of concern, based upon their management plan
20 that they have gone through a federal environmental
21 process with, and in collaboration or at least
22 approved by the Department of Interior. And if it
23 rises -- if their conservation efforts or if their op
24 tempo rises to the point that it supercedes whatever
25 their conservation measures are that have been

1 assessed under NEPA, then that would be a trigger, and
2 you could say, okay, we can't give you the
3 conservation credits until it's been reassessed.

4 But I think it's something that should at
5 least perhaps be thought about in terms of credits, if
6 you will. That this is a conservation measure. Still
7 federal land, not BLM. But we have the discretionary
8 authority to take into consideration as we are making
9 decisions about federal lands outside of the base
10 fence.

11 CHAIRMAN KEMPER: Bob Ellis.

12 MR. ELLIS: Could you comment on what
13 intersection there is on the time line and what
14 likelihood of impact for the Fort Irwin expansion and
15 the mitigation they are likely to have to perform
16 because of that expansion?

17 You know, there is a very close
18 intersection there on the Milk Vetch and the tortoise.
19 And how do these plans interact and what is going on
20 go on there?

21 MR. LA PRE: I can tell you what I know.
22 And I spoke to the Fort Irwin biologist just
23 yesterday. And their Environmental Impact Statement
24 for the operations on the expansion land and their
25 biological assessment to be submitted to Fish and

1 Wildlife Service are in the final, final review
2 stages. So I was given the answer that in 10 days,
3 both of those are going forward.

4 Now, recognizing that 10 days is a flexible
5 number, we think that the two plans basically will hit
6 the public and the affected agencies and everybody
7 else at the same time. I would say that, barring
8 other military priorities, that their plans will be
9 out during our comment period before September.
10 That's what I have been told. Perhaps Linda or Bill
11 know more about that?

12 MR. HAIGH: That's what I have heard.

13 MS. HANSEN: And I have nothing more.

14 MR. ELLIS: What surprises are likely or
15 can you speculate a bit?

16 MR. LA PRE: On the mitigation measures,
17 the Army was allocated \$75 million by congress to do
18 an environmental mitigation for expansion of their
19 operations. And I believe that most of that would be
20 for acquisition of private land within the blue blobs.
21 They have told us that. Both we and the Army have
22 looked at the private lands within the DWMAs, have not
23 contacted property owners, but just looked in a
24 general way of where are the best tortoise lands,
25 where are the least disturbed, where are the most

1 disturbed, which ones are surrounded by public lands
2 and therefore could fill in a conservation area.

3 The Army now has an option with Catellus
4 Development on their remaining lands which signals an
5 intention, maybe, to use those for mitigation if their
6 operations are approved.

7 The time line of carrying that out is
8 anybody's guess, Bob. I don't know how long it would
9 take to approve their documents or finally approve
10 their expansion or even if it will go forward.

11 MR. ELLIS: Does that injection of funds
12 to acquire inholdings within the blue blobs mean that
13 there is less, let's say, other lands that would be
14 available for mitigation for other people who are on
15 the development side of things? How does that
16 interact? A large part of the justification of your
17 plan is that development forces or people who want to
18 do development will purchase inholdings in the blue
19 blobs, yet we are coming along and the military is
20 basically, for the benefit of the tortoise, going to
21 purchase a lot of land. But it does seem it restricts
22 the developers to do trade-offs.

23 MR. LA PRE: It would take up some of
24 those same lands, and we do have the same conservation
25 goals for the tortoise and mitigation goals, you might

1 say. There is a finite number of private lands within
2 the blue blobs. When they are bought up, we are done.

3 MR. HAIGH: I think you should just keep
4 in mind, though, that it's still quite a bit of lands
5 in the blue blobs that's private. Probably 400,000 to
6 500,000 acres as of a year ago. It might be down to
7 300,000 now. So even after Army, you are talking
8 pushing towards 200,000 acres or more. I think that's
9 probably plenty for our 30 years.

10 MS. OVIATT: I was going to say what
11 Bill said.

12 CHAIRMAN KEMPER: I find it interesting
13 that we consider 400,000 when we are talking about
14 using wilderness areas, it might be several million
15 acres, and it's not enough now.

16 Any more questions?

17 MR. BROWN: Can you explain a little bit
18 about biological transition areas and how it differs
19 from DWMAs? And how hard and fast are the boundaries
20 of these open space corridors, and how do they differ
21 from DWMAs?

22 MR. LA PRE: We have, surrounding these
23 DWMAs, an area -- generally one-square-mile area that
24 we don't call a buffer, biological transition area.
25 That means -- we have talked about getting rid of that

1 altogether. And they may not stay there. But that's
2 an area where you want to be sure that projects that
3 are built there are compatible with the DWMAS, the
4 reserve, so to speak, so that you don't put a landfill
5 right in there that attracts ravens that will fly into
6 the tortoise area and eat the baby tortoises.

7 Since they are so similar to the special
8 review areas, we have had a lot of talks about
9 combining those or getting rid of them. And I think
10 their fate will actually rest on the public comment.

11 Now, on the corridors, those boundaries are
12 very fuzzy. And they are just indicated as arrows.
13 On that map there is a set of three pairs of arrows.
14 And they connect the LeAbrey Ridge, the hilly area
15 west of Palmdale, with the California Poppy Reserve,
16 the State Park. They connect the San Gabriel
17 Mountains down Big Rock Creek all the way back to
18 Saddleback Butte State Park. And the other one is
19 right across Highway 62 where -- in Morongo Valley
20 where big horn sheep cross from one range to another.

21 That latter one is there just to make sure
22 that if there is expansion of a highway, it retains
23 the existing bridge so the sheep can go under or
24 doesn't put a bigger barrier than there is now that
25 sheep can go over.

1 Those other corridors, linkages, you might
2 say, are a long-term goal. And it will be up to the
3 jurisdictions like Los Angeles County and -- I guess
4 they are both in Los Angeles County -- to see if
5 they -- if they agree with that and if they stay
6 intact. They are both within areas Los Angeles County
7 calls Significant Ecological Areas. They are revising
8 their general plan to make that more of an open space
9 area. And we haven't been able to get anything real
10 definitive out of Los Angeles County for six years, so
11 we put those double arrows there to indicate that we
12 have the same goals.

13 CHAIRMAN KEMPER: Thank you very much.
14 Bill Betterly.

15 MR. BETTERLY: Ron, I sit here and
16 listen to the number of private lands and the acreage
17 and a lot of public lands in the particular area. And
18 I, for one, really have lot of reservations about
19 taking private lands off the tax rolls of a county.
20 We have lost in San Bernardino County over 600,000
21 acres in the last few years and now we are talking
22 about 300,000 or 400,000 more acres off the tax roll.
23 And I have lot of reservation about that.

24 MR. LA PRE: Some of that is addressed
25 in the economic part of the EIS. And some of that is

1 something that may have to be fixed by congress. That
2 issue has been brought up to us many times. And there
3 is no perfect solution. Would you want to --

4 MR. BETTERLY: Well, this is reviewed in
5 five years, but it will take congress ten to even
6 think about it.

7 MR. LA PRE: That's possible.

8 MR. HAIGH: I think that is definitely a
9 concern. That's definitely a concern. It's examined
10 in the document.

11 One thing, though, to keep in the back of
12 your minds when you talk about losses to public
13 revenues from that, to the extent they might occur,
14 what we are banking on is an HCP that would attract
15 economic development and more than make up for that,
16 revenues from sales taxes and everything from a
17 healthier economy from more commercial development
18 down in the city, so hopefully you will have a
19 net-plus.

20 MR. BETTERLY: When you are looking at
21 that, you are looking at so many years down the road
22 and you are taking it off today.

23 MR. LA PRE: Well, the hot market, at
24 least for housing in the Victor Valley and Palmdale
25 and Lancaster is today. And those -- and in fact, an

1 article in the Victor Valley Press the day before
2 yesterday is everybody is being reassessed in some
3 areas. So what Bill said is coming true already in a
4 way. As property values rise in the urban areas, more
5 tax collections are coming in. And the remote areas
6 are not taxed as much anyway. But your point is still
7 very valid.

8 MR. BETTERLY: That was taken a little
9 out of context in that news article for the simple
10 reason that their taxes had been lowered due to the
11 fact that the economy had failed a few years ago. Now
12 it's back to where it was then. So they are just
13 moving the taxes back to where they were before they
14 lowered them.

15 MR. LA PRE: That's very good
16 counterpoint and reflects the cycle of housing boom
17 and bust.

18 CHAIRMAN KEMPER: Jon.

19 MR. McQUISTON: Just a question,
20 building on what Bill just said. If you take a piece
21 of property off the tax rolls, and then adding to that
22 what Bill Haigh said, yeah, but the potential is
23 there, but that the economic development on one piece
24 will compensate for the loss in tax revenue on another
25 piece, are there any mechanisms such that I buy a

1 piece of property and take it off the roll in Kern
2 County, but the development is going on in Imperial
3 County. They get economic benefit and I get the loss
4 off the tax roll? Are there any mechanisms that look
5 at this?

6 MR. BETTERLY: This happened to us, is
7 one of the points I was making, because we took
8 private land off the tax roll in Inyo County. And we
9 added to the tax roll in San Bernardino County to an
10 exchange. And if you think you are popular in Inyo
11 County, I guarantee you, you are not.

12 CHAIRMAN KEMPER: Lorelei.

13 MS. OVIATT: Lorelei Oviatt, Kern County
14 Planning Department. That's an excellent question.
15 And one of the things I wanted to clarify is the
16 mitigation fees that will be used to acquire land only
17 occur if there is development. If there is no
18 development, then the West Mojave Plan will not be
19 acquiring land because there is no take. And if there
20 is no take, then there is no reason to do that.

21 First of all, it won't be an advance. They
22 won't be finding a pot of money and going out and
23 acquiring land in advance and banking it and waiting
24 for somebody to come in for development. It's going
25 to be -- it has to be -- the acquisition of lands has

1 to keep pace with the take.

2 The other issue is that the way that the
3 plan is designed, it actually might be the other way,
4 Supervisor McQuiston. There may be development in
5 Kern County, but the acquisition may be in San
6 Bernardino County because of the way that the blue
7 blob maps have been designed. But this is the
8 advantage of a cooperative habitat conservation plan
9 across 9 million acres, that we all get the benefit of
10 the large-scale regional strategy, but we are all on
11 an equal playing field.

12 One of the very important equitable issues
13 was, right now people in different jurisdictions,
14 developers, may be paying different mitigation rates.
15 So everyone, cities and counties, starts fighting over
16 which place can give a better deal to a developer or
17 who has a better consultant to work things out with
18 Fish and Wildlife or Fish and Game. So one of the
19 equitable precepts established in this system was that
20 it would be equitable, fair and certain for everyone.
21 So I don't know if that answers your question.

22 MR. MCQUISTON: It does on the
23 development side. I understand what you are saying.
24 And this is what I would refer to, as one of my former
25 colleague's statement, "This isn't Burger King and

1 everyone doesn't get it their way." But the statement
2 was made that the Department of the Army has millions
3 of dollars to buy the blue blob. That's not
4 development-related. And if they just come in and do
5 it, are there any estimates of how much land they may
6 be able to get for that and what that does immediately
7 to the tax base? Anybody?

8 CHAIRMAN KEMPER: I think Gerry Hillier
9 has his hand up because he wants to answer the
10 question.

11 MR. HILLIER: I'm a consultant for San
12 Bernardino County. I can't answer the question
13 directly in terms of the tax rolls. I know that if
14 the Army bought Catellus land, that the tax roll loss
15 to San Bernardino County would probably be less than
16 you will expect because the Catellus acquisition from
17 Southern Pacific Land Company was a stock transfer all
18 tied up in Prop 13.

19 I can tell you this, though. The entire
20 issue of transfer of private land to public land is
21 also tied up with the payment-in-lieu-of-taxes
22 program. And I understand the Council has agreed to
23 have PILT on the agenda the next time. And I'm glad.
24 It's a very timely issue, because what happens is that
25 in many counties, because PILT is allocated on the

1 basis of population and not on federal acres, and San
2 Bernardino County is probably one of the best poster
3 children in the United States for the issue that when
4 you acquire private lands, the County gets not a penny
5 more PILT because it already exceeds 50,000 population
6 and it has over 8 million public acres now under
7 Forest Service, BLM, Park Service restriction.

8 And in the last four years, it has lost
9 650,000 acres in round numbers and not got a penny
10 more PILT except for the small incremental increase it
11 got just because congress increased overall national
12 appropriations, and everybody got the same percentage,
13 so it does make a difference.

14 Now, San Bernardino County is a fairly
15 substantial county and can probably absorb some of
16 those losses. When you start talking about cattle
17 ranchers and things like that, it becomes more
18 questionable because county services are still in
19 demand.

20 Inyo County, with only about 4 percent
21 private land in the county, if you start buying
22 private land in the Amargosa, you really do begin to
23 impact a county like Inyo, because they have fewer
24 than 50,000. Therefore, their PILT allocation formula
25 is governed by that small population, and they, too,

1 get not a penny more PILT. When land is acquired for
2 conservation purposes and not for development
3 purposes, it can cause economic havoc with many of the
4 counties.

5 It's a complex issue, and really, it's one
6 that's worthy of more full discussion. But the short
7 answer is you can acquire an awful lot of private
8 land, put it in the federal ownership, and the net
9 loss to local governments can be substantial.

10 MR. McQUISTON: I think it kind of
11 reenforces it. PILT has two definitions, based on
12 this formula. If you are below the criteria, it's a
13 payment in lieu of taxes. And if you are over, it's a
14 promise in lieu of taxes.

15 CHAIRMAN KEMPER: Ron Kemper. I'm
16 sure -- I'm still not clear.

17 Are you telling us that because of this
18 cooperative agreement, that you can develop property
19 in San Bernardino and then take property off the
20 private property tax rolls in Inyo Kern, and you can
21 use that as a vehicle to mitigate?

22 MR. McQUISTON: The answer is no because
23 the only species of concern in Inyo-Kern is elephants.

24 MS. OVIATT: Lorelei Oviatt, Kern County
25 Planning. The answer is that yes, that could possibly

1 happen. The developer is going to pay a fee to the
2 West Mojave Plan. The West Mojave Plan is going to
3 put together this regional committee that has
4 representatives from the counties and the cities, and
5 they are going to come up with an implementation plan
6 of where the area to acquire. And it is within the
7 conservation areas only from willing sellers. And
8 that is the answer. So the answer is not the
9 developer goes out and finds property and brings it
10 in.

11 CHAIRMAN KEMPER: All these counties,
12 they are agreeable to that?

13 MS. OVIATT: Not yet.

14 CHAIRMAN KEMPER: I suspect they won't
15 be.

16 MS. OVIATT: Well, as a planner, what we
17 are doing here is we are coming up with a
18 recommendation and a Habitat Conservation Plan. These
19 counties have funded staff, such as me, for years to
20 work on this. This is all still a proposed plan. The
21 Bureau of Land Management needs to take action on
22 their side. The Habitat Conservation Plan will go
23 through another year after the EIR is done, will
24 continue with the work group. BLM will be at that
25 point a stakeholder on the work group. And the

1 counties will then bring them to their
2 representatives, their county Board of Supervisors or
3 their City Councils. It's at that point, Ron,
4 Mr. Kemper, that the elected officials will decide
5 whether there is enough interest from the building
6 industries, the property owners, and other interests
7 that this is a solution.

8 CHAIRMAN KEMPER: Let me give you a
9 scenario, something that will give you planners
10 something to think about. And I will talk to you a
11 little bit from the development side. As California
12 communities get developed and we are lucky enough in
13 the desert regions, we tend to see larger lots and
14 more space. But I don't think what we have been
15 seeing in more urban areas of Riverside and San
16 Bernardino and Orange County and Los Angeles are that
17 far away from our high deserts.

18 And one of the things that we have to look
19 at as affordable builders is that front footage cost
20 of infrastructure. And as that front footage cost has
21 to get smaller and smaller and smaller, then we have
22 to start looking outside of our personal space, so to
23 speak, in our subdivisions for areas of space within
24 our communities. And areas to recreate and parks and
25 baseball diamonds and that sort of thing.

1 I feel pretty sure that the development
2 community, when they are giving monies up at a rate of
3 five to one or two to one or whatever are going to
4 want to make sure that their constituency or their
5 customers are going to have the benefit of those
6 trades in land values. And so I think it's something
7 that planning should seriously take into consideration
8 at this point.

9 MS. OVIATT: Good point.

10 MR. McQUISTON: You are exactly right.
11 Every county is going to have to deal with this. But
12 we have a lot of development going on in Kern County
13 as well as many others. And the one thing that I
14 certainly get inundated with, the development
15 community is market-driven and it can be respond or
16 make a choice based on that. But the one thing that I
17 hear constantly is what's needed is certainty. When
18 you head down this path, what permits are required?
19 How long is it going to take? And how much is it
20 going to cost? And in the absence of a Habitat
21 Conservation Plan in many locations, this is a big
22 concern. It drags out for years and years. This is
23 investment capital.

24 So I think at the end of the day, even
25 though there are a lot of imperfections, we are

1 hearing, at least in my area, that we need this
2 certainty in terms of the HCP and the no-surprises
3 rules that go along with that, even though those are
4 being challenged, even as we speak. And at the end of
5 the day, I suspect that there are going to be parts of
6 this that all of us will dislike. But it is a step
7 forward in terms of future development on private
8 lands of having certainty, then, that developers can
9 make business decisions on. And I think that's what
10 we are trying to achieve. But I don't disagree with
11 all of the issues we have raised. When we say yes or
12 no, we may be holding our nose as we are doing it.

13 CHAIRMAN KEMPER: Thank you. Okay. I
14 think we can move on with our presentation.

15 MR. HAIGH: Next person will be Ed
16 LaRue.

17 I was also asked to make one clarification
18 to make sure everybody is straight on it. The Mojave
19 ground squirrel status, it's a state-listed species,
20 state-listed threatened. Ed.

21 MR. LA RUE: Maybe as a segueway into
22 what I am going to talk about, I have a question,
23 maybe just for the record, I suppose.

24 I heard Gerry Hillier just indicate that
25 the removal of this level of private land would wreak

1 havoc on the county. And I think Mr. Betterly
2 mentioned there has been something like 600,000 acres
3 in the last four or five or six years that have
4 already been through that process. So do we have any
5 data or studies to show the effect on the county land
6 base that's resulted from the exchange already?

7 CHAIRMAN KEMPER: I believe Mr. Hillier
8 has been working on that, if you would like to
9 respond.

10 MR. LA RUE: I will talk to him at the
11 break.

12 My name is Ed LaRue. I just didn't know
13 until today that we had produced an 11-pound document.
14 I guess I wrote about two pounds of it.

15 My two pounds are the desert tortoise and
16 the Mojave ground squirrel. Whereas Larry is dealing
17 with the other species, these are the two I have been
18 focused on.

19 I would like to explain a little bit about
20 some of the data collected so as you going through
21 these documents, you can see how we have derived that
22 information. There is some stuff for the Mojave
23 ground squirrel, but today's focus will be on the
24 desert tortoise.

25 I would like to really start with the end.

1 Even though this is an 11-pound document and fairly
2 thick, I would suggest that what we are trying to
3 accomplish is caught right here on this one piece of
4 paper. And that is we still have tortoises in the red
5 areas, and we have lost tortoises in the blue areas.
6 In some cases, it may not be too big of a loss because
7 it was already a natural marginally suitable habitat,
8 perhaps. But what you are looking here are the DWMAs.
9 So the blue blob is the only thing depicted on this
10 map. And in looking at that, you can see that maybe
11 60 percent of it or so is really occupied by a fairly
12 what we think is a healthy population of desert
13 tortoises.

14 The other third of the land base in our
15 conservation area is either devoid of tortoise sign --
16 you can see each one of those blue squares,
17 particularly up in the northwest there around
18 California City, is a square mile where we didn't find
19 any tortoise sign. Those places are associated with
20 places that the BLM showed as many as 200 tortoises
21 per square mile back in the seventies. So something
22 has happened there and the animals have disappeared.

23 So we will come back to this slide at the
24 end, but again, what I would suggest is that what we
25 are trying to do here is protect the animals still out

1 there and also get the animals back where they used to
2 be where we have information to show that.

3 You probably heard a lot about surveys that
4 have been done over the years. For the most part, BLM
5 was responsible for the earlier surveys in the
6 seventies and eighties. And outside of that, all
7 of -- more or less the recent surveys have been done
8 on the military installations shown at the bottom of
9 the slide. So, in effect, we didn't have that much
10 information for a majority of our area outside of the
11 military basis.

12 So what we have done in 1998 and '99 and
13 2001 was to go out and survey the acreages that you
14 see here, square miles, so that we ended up with about
15 3500 square miles of new information on both the
16 desert tortoise and also land uses.

17 What I would really like to do at this
18 point is to give you a little bit of how the
19 interpretation went into what you are reading in terms
20 of how these data were presented. There are basically
21 two different things that we picked up by doing these
22 transects. The first one is relative to the desert
23 tortoise, and it shows us places where the tortoises
24 occur, like the map I just showed you had with the red
25 and blue, places where they are relatively abundant

1 and relatively not. It also gave us specific
2 information on both living and dead tortoises. The
3 ones that were alive, were they mostly adults, were
4 they young ones? Of the dead ones, were they crushed
5 or intact? What was the nature of the animals in the
6 information that we came across?

7 And fourth in terms of the desert tortoise
8 are these die-off regions, places where we saw
9 carcasses that had died of a similar age that actually
10 showed patterns on the landscape. The second sort of
11 gross level of information that's available from this
12 is the observable huge disturbances observed on these
13 3500 square miles we surveyed.

14 The way you see this in this document and
15 some of the maps that I've got here are kind of
16 depicted like this. They show places where there are
17 individual square miles, in this case, each of the red
18 squares is a square mile. You also see these kind of
19 grayish areas that sort of come about, if you will,
20 from the data. So I wanted to talk for a few minutes
21 about how we established or created these gray areas
22 so that we are actually using the data and not
23 subjective wannabes.

24 There are two rules to try to figure out
25 these areas that are called polygons or regions,

1 basically. One is that you need to have at least four
2 square miles of contiguous habitat. If you want to
3 look at places tortoises are common, then we wanted to
4 have at least four square miles to show the tortoises
5 were common.

6 The second is that in drawing these lines
7 around these regions or polygons, I wouldn't allow
8 myself to skip more than a linear mile of either no
9 data or inapplicable data. Here are two examples. In
10 this case, for example, on the right we are looking at
11 six square miles. The four square miles that are
12 green were data. The two that are blue, there are no
13 data. So in drawing this region of high tortoise
14 density, if you will, the red line couldn't go more
15 than a linear mile across the blue area. And again,
16 we have the four contiguous square miles there.

17 So you see on the left, we have three
18 contiguous square miles and the fourth one kind of off
19 to the bottom, that violates the rules. So the one on
20 the left does not become a region or polygon.

21 Feel free to stop me if there are questions
22 relative to the methodology in terms of things you
23 don't understand. Other questions without answers we
24 can wait until after we are done. But this is a
25 fairly important concept because it's applied to a

1 number of different things in terms of both tortoise
2 concerns and also human disturbances.

3 So if you are given a grid, this is about
4 40 square miles, what you will see is the dark green
5 areas are places where we have data. There are also
6 these light green areas where we also have data, and
7 then the gray areas that were not surveyed. So how do
8 we go about interpreting this in terms of turning it
9 into a region?

10 In this example, what we are interested in
11 seeing is where do the highest abundance of tortoise
12 sign occur. What we found was that when you drop all
13 of the zeroes, all the transects where there was no
14 tortoise sign found, and you took the average, it
15 ranged from 1 to 47 pieces of sign, and the average
16 was five. So in this case, what we are showing is
17 every square mile where a transect had at least five
18 pieces of sign, in other words, above average. The
19 light green areas are places where tortoise sign was
20 found, because again, we threw out the zero, but it
21 was less than that average, so below average areas.

22 So this is what the polygon looks like.
23 Again, you established these two rules. You can see
24 up in the upper left-hand corner we have some places
25 of high density of tortoise sign but they are not four

1 contiguous square miles. What I would suggest then on
2 this 40 square miles or so of land that are the areas
3 of high density tortoise habitat, if you will, are
4 captured in these red lines.

5 MR. SMITH: This methodology, is this
6 the accepted way for doing tortoise survey?

7 MR. LA RUE: Absolutely not. I
8 shouldn't be too flippant. The methodology is what
9 has been done since the seventies in terms of going
10 out and doing the triangular transects. So each one
11 of these square miles had a 1.5 mile triangle surveyed
12 within it. That methodology hasn't changed. But how
13 that information is being used is what's drastically
14 different.

15 For example, for many years you would see
16 these maps that showed areas of zero to 20 tortoises,
17 20 to 50, so forth. We haven't tried to extrapolate
18 densities. All we are trying to do is show places
19 where tortoises are or are not common. But it's
20 presumptuous to say there are 230,002 tortoises in one
21 region. I don't think that can be done.

22 Another key point, then, and most of the
23 people -- because I don't think this is very well
24 outlined in the EIS, but in reporting the results of
25 this kind of analysis, what you see in the tables and

1 in the text in here are the actual square miles of
2 green. So even though, for example, this polygon that
3 I just walked you through is 25 square miles, only 18
4 of that are the above-average tortoise sign. So when
5 you are looking at the data in the book, what you are
6 looking at is the actual square miles and not the area
7 where surveys weren't done.

8 MR. BROWN: It doesn't show the areas
9 where there was no sign?

10 MR. LA RUE: It does. You can apply
11 these two rules, and hopefully, there will be
12 meaningful comments that will come back from public
13 comments to say why didn't you do three or why didn't
14 you do five or something different. But the point is
15 that those can be applied to at least where we have
16 data. And that is one of the things on the slide here
17 in a minute, it will actually show you three or four
18 regions where we didn't see vehicle impact, which is a
19 fairly rare thing.

20 There are three different kinds of polygons
21 derived from this kind of data use: The higher
22 density tortoise areas we have already talked about.
23 These tortoise die-off regions, places where there are
24 both newer and older die-offs. And also the vehicle
25 impact areas. Those are three gross levels, if you

1 will, of the way the data were used and these polygons
2 were established. We will talk a little bit
3 specifically about those things.

4 What we found was that there are about 258
5 square miles of above-average sign counts in these
6 3500 square miles we surveyed. This gives you a
7 little bit of a breakdown in terms of within each of
8 the four DWMAs, where these above-average sign counts
9 occur. And generally you can see that in the three
10 DWMAs, Fremont-Kramer, Superior Cronese and the
11 Ord-Rodman, it's all roughly 15 to 18, basically 17
12 percent of that area has the above-average tortoise
13 sign. And in the Pinto Mountains, which is 173 square
14 miles, we didn't have any transects with above-average
15 sign.

16 What about Joshua Tree, for example, and
17 its contribution to tortoise conservation? In
18 addition to being a different habitat region, because
19 it's more on the Sonoran Desert, between the Mojave
20 and the Sonoran, it also is a place of fairly low
21 densities. And unfortunately, with people, we tend to
22 be bean counters. We want to know where is the most,
23 where is the least, and what are the numbers?

24 What we see is that in that southeast area,
25 including Joshua Tree, that there are tortoises down

1 there, but the population levels are very low. So if
2 you are looking at this as a numbers game it doesn't
3 really contribute that much to conservation. And at
4 the same time, if the Pinto Mountain DWMA were
5 excluded, what impact would that have on the West
6 Mojave Plan? Probably negligible, compared to any of
7 the four DWMAs, because it is surrounded by Joshua
8 Tree, and there is already a commitment at Joshua Tree
9 to recovery level protection of the tortoise.

10 The other thing that was interesting is
11 when we took this data to figure out where the high
12 density areas of sign were, we also had 275 tortoises
13 we incidentally saw. We were pretty much looking for
14 scats and burrows. Those are the signs that were used
15 to draw the polygons. But when we came back and put
16 the tortoises into it, what we found was that it was
17 fairly predictive. And even though there is only 17
18 percent of the DWMAs of this higher tortoise sign,
19 that it actually captured 40 percent of the adults and
20 actually a little bit more of the subadult tortoises.

21 And that's a fairly key things in terms of
22 the continuing controversy of protecting or putting
23 all of your conservation effort into controlling
24 ravens and disease. It's a fairly key thing. It's
25 showing you that the ravens are mostly going to be an

1 issue in only about 15 percent of the landscape. But
2 at the same time -- what I am trying to say is that
3 here -- here, this will work.

4 You can see on this slide here, these gray
5 regions -- again, I apologize for the quality of this
6 particular slide. But you can see here that there are
7 these little grey areas. One here, some down in here,
8 and here and here, this area here, these are where we
9 applied the polygon, those two rules, to find out
10 where tortoise sign was prevalent, where is it most
11 common? If you were to look in your book, map 3-9
12 shows these areas of common tortoise sign, if you
13 will. But it also shows the location of the tortoises
14 that were superimposed on there. And again, you can
15 even see with an eyeball analysis that most of the
16 tortoises are in these gray areas.

17 What I was saying, Ron, is that these gray
18 areas comprise 17 percent of the four DWMAs, that land
19 base. However, 40 percent of the adults that were
20 found and something more than that, in the order of 50
21 of the subadults were in these gray areas. That was
22 the main point.

23 MR. PRESCH: How do you jump to ravens?

24 MR. LA RUE: I know that's a salient
25 issue in terms of the protection of a land base versus

1 the eradication of a threat.

2 CHAIRMAN KEMPER: I guess I didn't
3 follow you. We are talking about mature breeding
4 tortoises. And we didn't have any information about
5 neonates, which is what the raven is preying on.

6 MR. LA RUE: When I use the word "adult"
7 and "subadult," I'm making that distinction. The
8 adults are reproductive animals. And 17 percent are
9 in these gray areas. The subadults, the ones that
10 haven't become reproductive, a few more than 40
11 percent are also found in these gray areas. What I
12 was suggesting, then, if we were going to do something
13 effective for raven management, it would be the gray
14 areas because that's where the subadults are. There
15 are many others too.

16 CHAIRMAN KEMPER: But you are not making
17 a distinction between subadults and neonates. Did you
18 explain the difference?

19 MR. LA RUE: Yeah, I will do that. In
20 effect, neonates is a term that's applied to
21 hatchlings. Maybe for the first couple of years. But
22 literally it means hatchling. So when we talk about
23 subadults, we are talking about -- it's not like
24 humans where we are measured by age or years. With
25 tortoises, it's the length of the animal. So they

1 become -- basically go from adolescence to adulthood
2 when they reach about 180 millimeters, 6 inches. So
3 animals smaller than 6 inches in length are subadult.
4 Those greater than 6 inches in length are adults. And
5 the adults are reproductive and the subadults are not.

6 Then to complicate it further, ravens
7 really only affect tortoises up to about 110
8 millimeters. So there is a 70 millimeter play area in
9 there where the animal, say, is maybe six or seven
10 years old, it's not reproductive yet, but it's old
11 enough that it's not going to be a problem or ravens
12 are not a problem.

13 CHAIRMAN KEMPER: That was the point I
14 was trying to make. We weren't actually making the
15 selection group small enough, if we were throwing in
16 tortoises from a year to two years on up to six years,
17 which probably aren't prey for ravens.

18 MR. LA RUE: They don't become sexually
19 mature until 180 millimeters. They are raven fodder
20 up to 110 millimeters, 2.54 centimeters. So 250
21 millimeters per inch. That's one of the reasons I'm a
22 biologist. I can't do very good math.

23 MR. BETTERLY: Say it in English.

24 MR. LA RUE: So here is basically a
25 diagram showing the same thing. We surveyed all over

1 this area. This is again the DWMAs, the Fremont-
2 Kramer is the green one, the Superior Cronese is
3 purple, and the Ord-Rodman is this one. And you can
4 see that there are square miles in here of
5 above-average tortoise sign, but they didn't satisfy
6 the polygon rules.

7 The other thing that's fairly key is the
8 desert tortoise natural area. For years and years
9 people have been saying what good has that fence done?
10 I think for the very first time we can answer that
11 question. There were only 14 subadult or
12 prereproductive animals found on the west side of 395
13 and north of 58, and 13 of those 14 animals were at
14 the natural areas. It seems to be on a regional level
15 the place we are getting population and repopulation,
16 even though it appears there was a crash of tortoises
17 there in the late eighties, but it appears they are
18 coming back. And I'm not going to be so presumptuous
19 as to say it's because of the fence and the land is
20 protected. However, that's where everything implies.
21 That's the difference that's going on out there.

22 So if we want to try to look at the
23 locations of vehicle impacts, for example, this is
24 just -- there are a number of different things in
25 here. I want to give you a few examples so you can

1 see where we are going. We surveyed 3,500 square
2 miles all over this area. The DWMAs, I'm showing the
3 vehicle impacts outside of the DWMAs. But the thing
4 that's intuitively appropriate or good here is that
5 you find the vehicle impacts at Johnson Valley, at
6 Stoddard Valley, at El Mirage, up at Spangler, over at
7 Dove and Jawbone, and those are open areas. These are
8 places where you would expect vehicle impacts to be
9 heaviest.

10 MR. SMITH: Could you define a vehicle
11 impact? Is it a dead tortoise hit by a car?

12 MR. LA RUE: No. In addition to the
13 information on tortoises, we also collected
14 information on human disturbances. So there were
15 somewhere in the neighborhood of 25 different kinds of
16 things we recorded each time we saw it. So what you
17 see in this area, and again, because it's above-
18 average vehicle disturbances, we looked at seven
19 different vehicle impacts. So the above-average
20 vehicle impact areas are above-average locations of
21 trails, tracks, dumps, litter, hunting, target or
22 camping. The things -- I think we tend to have a mind
23 set. We are already ahead of what is trying to be
24 said here.

25 I'm not saying that all these things affect

1 tortoises. I am saying they are a relative measure of
2 where people go in vehicles. Probably of these things
3 that affects tortoises the most are tracks, because
4 that is places where they counted tracks not on the
5 road. They were cross-country. And tracks ranged
6 anywhere from one track per transect up to more than
7 2,000 tracks per transect.

8 It gets worse at Fort Irwin where there is
9 a 750-track-per-transect cutoff, if you will. So when
10 we get to 750 tracks, we stopped counting. And the
11 majority of the transects at Fort Irwin have that kind
12 of impact, if you will, which is another form of
13 off-road activity, but certainly more intrusive than
14 vehicles.

15 So back to this. In addition to what we
16 expect, if you will, of these impacts in the open
17 areas, you also see that we have substantial vehicle
18 impacts up here around California City, going into the
19 Rand Mountain area. Again, this excludes the DWMAs,
20 but each of these square miles in here is a place
21 where you had above-average vehicle impact. So we
22 have that kind of thing in open areas where it would
23 be expected, but also in places where it might have
24 been known but not really expected, if you will.

25 MR. McQUISTON: Inside the DWMAs, you

1 gave an overview of your transects and in many of
2 those, there was no sign found. And in others, less
3 than something. But in those areas inside the DWMA's
4 where this human activity, vehicular, has not occurred
5 and there is no tortoises, what can you infer from
6 that in terms of the assumptions that they are dying
7 or loss of the species in relation to the human
8 activity?

9 MR. LA RUE: Let's go to the next slide
10 here. This one I think is maybe getting to that.
11 This is actually the same information. In other
12 words, vehicle impacts inside the DWMA's. So it would
13 be nice to have all this on the same slide, but
14 unfortunately, it's not that way.

15 So again, if you keep in mind here, you
16 know where the open area is pretty much outside, but
17 what we are finding is that those vehicle impacts are
18 also bleeding over into the conservation area. So
19 what's probably going on in this area is traffic out
20 of the Johnson Valley open area, this is adjacent to
21 the Stoddard Valley open area. Here we have El Mirage
22 down in this area. And a place that's, unfortunately,
23 impacted is Edwards Bowl, known for its vehicle
24 impacts. You can see that it does show up on here
25 using the data we collected. And then a similar. So

1 what I showed on the previous slide was the big area
2 of impact outside the DWMAs. But you can see it's
3 inside the DWMAs, as well. This is associated with
4 the Spangler open area.

5 The thing that came out of this that's
6 really interesting is that not all of the vehicle
7 impacts are basically recreation. Not all of the
8 impacts are recreation. I think it's safe to say
9 where you got adjacent to open areas, that that is
10 relative to recreation. But this area in here, for
11 example, Silver Lakes is located right here. And it
12 would appear that some of the impacts are going on
13 west of Silver Lakes, also in the Iron Mountain, and
14 also at Hinckley. And also up in the Coyote Corner,
15 are really more residential vehicle-type impacts. We
16 found more hunting, trash and litter, more dumping
17 than you found in the open areas.

18 So it appears there were three different
19 vehicle impact areas from the data we have. The open
20 area impacts; there are these residential impacts
21 coming from the communities; and then there are
22 these -- I don't know if they are historic use or
23 nondesignated or what, but however you would
24 characterize Edwards Bowl in the Rand Mountains up
25 around California City, there is a different kind of

1 impact from the residential and open area impacts I
2 can see.

3 MR. READ: What do the colors mean?

4 MR. LA RUE: The color is basically, in
5 this case, you can see we looked at disturbance values
6 on this particular one for eight different
7 disturbances. So of the green areas you see in here
8 is where one of those eight disturbances were above
9 average. The places where you have red, which would
10 be there, there, and one other place, are the places
11 where you have in this case five out of eight. There
12 was not a single square mile that had all eight
13 impacts. The highest we had was five out of eight.
14 But if you were to look at this on a sheet of paper,
15 what it's basically showing you is this area right
16 here, and it's indicating the level of severity for
17 these various impacts over there. But it's not really
18 the main point of this slide.

19 MS. HUNT: What did you mean by
20 distinguishing between vehicle -- residential vehicle?

21 CHAIRMAN KEMPER: If the person asking
22 the question could stand and give their name.

23 MS. HUNT: Jane Hunt. Yeah. I was just
24 wondering, you make the distinction between what is
25 residential vehicle, because where I live, I mean

1 residential vehicles also include, like we have off-
2 road vehicles going up our street.

3 MR. LA RUE: I think that terminology
4 can be however. Maybe that's what is confusing you.
5 The main thing I think is we have impacts associated
6 with BLM open areas. We have impacts like around
7 California City that don't have an immediate
8 urbanization there, if you will, or community. But
9 it's a use area where people go. And then we have the
10 places adjacent to residential areas like Silver
11 Lakes, Hinckley, but they are something other than
12 open areas. And the play areas up at California City,
13 they are kind of an intermediate thing, and you will
14 see in the values of the EIS that the data are
15 analyzed in terms of one having more trash or
16 different kinds of disturbances.

17 MR. SCHILLER: When you are referring to
18 dumping, are you referring to landfills that are food
19 sources for ravens?

20 MR. LA RUE: No. Dumping is
21 something -- when you came across on the transect,
22 when you came across either a pile of refuse of a
23 fridge or old car, it was something that had to be
24 deposited there from a vehicle.

25 MR. SCHILLER: So you are not talking

1 about impact directly to the tortoise when you are
2 talking about a dumping area. You are talking about a
3 food source?

4 MR. LA RUE: I think a majority of
5 people are not trying to get that distinction. I'm
6 not saying hunting or camping are not necessarily
7 affecting tortoises. The point is all seven of these
8 types of data are associated with vehicle use. And so
9 we are trying to see where is vehicle use most
10 prevalent. That's the intent.

11 MR. McQUISTON: I think you are going
12 from human activity to impact on the tortoise by the
13 word "impact," as opposed to occurrence. Human
14 occurrence. But by calling it a "human impact," there
15 is an inference that it's impacting something. And
16 the something we are talking about is the tortoise.
17 So I think for discussion purposes, maybe a better
18 name, human activity or human something or vehicular
19 activity or human activity, but when you say "impact"
20 then you are impacting something. And that's where we
21 are ending up.

22 MR. LA RUE: Okay.

23 MR. McQUISTON: If that's not the
24 intent, I think we can clean it up.

25 MR. LA RUE: I think you are right.

1 There is a lot of discussion in the document in terms
2 of those vehicle impacts, so if I'm talking about
3 data, what you suggested is the best way to do that.
4 We are basically talking about the prevalence of human
5 use. However, there is a tie. Each of those seven
6 things does have a body of literature that suggests
7 that, for example, 80 percent of the tortoise
8 carcasses found out by Fremont Valley have shotgun
9 wounds or some other evidence of having been shot. So
10 there is that tie-in.

11 But if I may, I would like to try to get
12 through the slides and save these kinds of questions
13 for afterwards. The beauty I think of this, first of
14 all, the two rules eliminate subjectivity. So as a
15 wannabe guy who wants to protect the whole desert, I
16 really can't change and still abide by those two
17 rules. I don't have that opportunity, if you will.
18 So it really makes it an objective way of looking at
19 things.

20 The other nice thing is it allows you to
21 compare different things. For example, in this, we
22 are showing these gray areas as vehicle impact areas.
23 That's what we have just seen on the previous slide.
24 But also the earlier thing that I discussed in terms
25 of where are tortoises most common, they are in the

1 light blue areas.

2 This is depicted better on some of the
3 other maps. I have one here that is a lot better.
4 But in effect what you can see -- it's a shame that we
5 are as we are. We have been dealing with these issues
6 and polarized for so long, it's kind of hard to back
7 up and take a new perspective.

8 The way these data in my feeling should be
9 used is not to say the tortoise has disappeared here
10 because of vehicles or they are not common here
11 because of vehicles. I think the proactive way of
12 looking at this is where do we have conflicts right
13 now? Where are the tortoises? The first slide I
14 showed you, where can we protect the most tortoises?
15 Are there places where we have vehicle impacts
16 overlapping with high density tortoise areas? We can
17 spend the next 40 years as we spent the last 40 years
18 saying vehicles don't affect these tortoises. And I
19 don't know. I mean, there is information both ways.
20 Depends on how you see things.

21 But what I am suggesting is proactively, we
22 have an opportunity to see that we have a problem
23 right now in terms of prevalence of vehicle use, which
24 again, in general, in the literature is documented as
25 an impact. And overlap of places where tortoises are

1 still common. So if you are going to prioritize, if
2 you are going to take that one dollar that Gerry Lewis
3 will give us when this goes through -- if you did,
4 just in terms of speak symbolically, if you had a
5 dollar to spend, I would suggest you not do it in the
6 Rands. Let's do it by Silver Lakes where we have
7 vehicle impacts and tortoises. So I think it's an
8 opportunity to address some of your concerns: Where
9 are we going to close roads? When are we going to put
10 the signs up?

11 My feeling is we have good opportunities
12 with this kind of information to target those places
13 where right now we will have the biggest effect. What
14 I referred to is the "make a difference" or the MAD
15 maps. That's the whole effect of this. Where can we
16 make the biggest contribution to desert tortoise
17 conservation in this planning area?

18 Tortoise die-off regions is another way we
19 use the data to try to figure out places where
20 tortoises may have died. In this case, there are 123
21 square miles mostly in the northern part of the
22 Fremont Kramer with older regions of die-off, if you
23 will. And then newer regions, 165 square miles mostly
24 associated with the Superior Cronese and the Fremont
25 Kramer area south of 58.

1 There is another map that's taken out of
2 the EIS. And again, there are better ways to depict
3 this. But the main thing is we have the same
4 polygons. And you can see that there are some light
5 gray ones up in this area and darker black ones over
6 in this area. In effect, what the data tell us from a
7 thousand -- and I forgot how many -- we found more
8 than a thousand tortoise carcasses. And biologists
9 have a way of determining the age since death from
10 that carcass. What this is showing you is the
11 distribution of animals that have died more than four
12 years ago. So I think as a general rule, what we are
13 looking at here are the gray areas, polygons in here
14 or regions where tortoises probably died prior to
15 1990. That's what I mean by the older die-off
16 regions. And these dark areas appear to be places
17 where tortoises have died since then, tortoises that
18 biologists in the field determined had died not more
19 than four years ago. There are these older regions of
20 die-off and newer regions of die-off.

21 Now, one of the collaborative pieces of
22 information that Kristin Berry has provided since the
23 mid-seventies on the study plots has been widely
24 criticized as why are you saying anything more than
25 just outside of the square mile you just surveyed.

1 What I would suggest is these data actually show or
2 collaborate, they support Kristin's findings that
3 there was a die-off. This particular graphic is
4 showing only the newer, while it emphasizes the older
5 die-off regions, these gray ones. The green ones are
6 the newer die-off regions. But the point is there are
7 9 permanent study lots in the West Mojave and the
8 places where we had these old die-off regions or where
9 Kristin has documented mortality between 72 and 93
10 percent from the Fremont Valley down to the Fremont
11 Peak.

12 MR. BETTERLY: Is she counting
13 carcasses, or is she using one of her guesstimations?

14 MR. LA RUE: I'd rather not go into it.

15 MR. BUGERA: Please answer.

16 MR. LA RUE: It's a methodology that
17 involved statistics and also what are called mark
18 recapture, so it is an estimate. On one year, say,
19 for example, in 1978 there was an estimate here. And
20 then they went back out there four years later and
21 there is another estimate. And they did that every
22 four years up until about the early nineties.

23 What I am showing here is the difference
24 between that very first number and the very last
25 number. In other words, the decline from 1978 when

1 she estimated 180 or 190 tortoises per square mile
2 down to the current situation where it's more like 20
3 tortoises. So it's not based on two data points. Not
4 way back then and here. It's a progression of
5 information that's shown a steady decline. The
6 information could have been different than it is.

7 MR. BUGERA: But it's based on a random
8 number.

9 MR. LA RUE: I's not based on a random
10 number.

11 MR. BUGERA: She picked a number.

12 MR. LA RUE: It's based on people
13 spending 60 days on a square mile and counting
14 tortoises. So they would cover that square mile in 30
15 days and count 23 tortoises, say. And then the very
16 next 30 days they would cover it. And the statistics
17 that I'm kind of getting around because I don't
18 understand them that well myself, is a comparison of
19 what she found in that first and second 30 days. That
20 result is an estimate. Kristin maybe has had some
21 legitimate problems or concerns there, but there is
22 some good science in there too.

23 What I am suggesting is the data we
24 collected since 1998 support what she has been saying.
25 That's open for new information or what. That's the

1 reason we are in the public process now.

2 So again, the regions of older die-off are
3 associated with places where she documented a 72 to 93
4 percent decline. The other study plots, 69 percent at
5 Kramer, Stoddard, Lucerne Valley, Johnson Valley is
6 similar to these. But you can see the places where
7 there are not these older die-offs or even newer ones
8 or places where we don't have similar declines that we
9 see up here. Does everyone see that?

10 MR. BETTERLY: With Kristy's
11 guesstimation of what the population was way back in
12 the '84 study that was so large, that was an estimate
13 then. And what she is doing is compounding her
14 estimate by making an estimate again.

15 MR. LA RUE: In effect -- I agree with
16 you. I looked at 1984 map and there are 70 square
17 mile areas that only have two data points in them.
18 And that does seem like a bit of extrapolation. But
19 we are talking about something different. We are
20 talking about data collected in the exact same way
21 from the late seventies through the early nineties
22 that were done consistently in the same approach that
23 derived an estimate. It's not quite as bad as the
24 thing that you and I are talking about in terms of the
25 '94 thing.

1 These are actually -- I mean, the problems
2 that people have with these, for example, is to apply
3 the statistic, you need what is called a closed
4 system. Animals cannot come or go during that survey
5 period. And this methodology clearly violates that.
6 Tortoises do come and go on that square mile.

7 MR. BETTERLY: The original was an
8 estimate in the first place. So the counting using
9 another guesstimation is not going to give you really
10 an accurate count anyway, is it?

11 MR. LA RUE: The accuracy of it has been
12 questioned as well. But the point is that the same
13 methodology was applied at four-year intervals. And
14 when you look at that information, you see there is a
15 steady decline. And it tends to suggest that they
16 were on track. I'm just suggesting that with the data
17 that we now have available, it supports what Kristin
18 found and that is there was an older die-off.
19 Obviously this a briefing, so I would suggest --
20 again, let me just try to get through the couple of
21 slides unless it's a methodology question.

22 MR. PRESCH: No, you can't go forward.

23 MR. BUGERA: I'm an engineer and I see a
24 lot of these types of surveys. Now, we know that a
25 tortoise carrying its home with it is transitory. You

1 said it was counted in the 30-day period and then the
2 following 30 days. That's not accurate. If you count
3 the first 30 days, and you go back one year later and
4 you count to see if that is where they stopped over
5 from going somewhere else. Now, if they are not
6 there, there will either be a carcass or they will
7 have moved into another area, which means you have 100
8 percent increase of tortoises when they cross into
9 those new areas. So you don't have a decrease of
10 tortoises. You have an increase in one area, a
11 decrease in another area, and you just zero it out.

12 And another thing is with the last slide
13 where you said vehicle versus tortoise. Then you said
14 someone drags a washing machine out to the desert.
15 That's a vehicle impact. What if you brought it out
16 on a horse? Is that a vehicle?

17 And if not, what you are doing is you are
18 comparing a criminal who dumps in the desert to a
19 law-abiding OHV user. And I would like to see all of
20 the -- if you took 100 vehicles, I want to see what
21 every one of them was before I will qualify this data.
22 This data is just not -- it's a controlled source, but
23 you're controlling the source. And I want to see all
24 the results.

25 MR. LA RUE: Sure. Those are available.

1 (Applause from the audience.)

2 Again, I'm giving you a briefing. The one
3 inaccuracy I would point out is that the methodology
4 requires that you cover whatever the site is, a square
5 mile, in 30 days, and immediately you go back there in
6 the next 30 days and recover it, because you need to
7 have the comparison between the two numbers to work
8 the statistics.

9 And then a little different from also what
10 you said, it's four years later, not the next year,
11 that they went back and did the same.

12 MR. BUGERA: Well, the next period.

13 MR. LA RUE: So even though I have
14 jumped from the first to the last year here, in the
15 EIS you see that it gives each year. And it actually
16 shows in the eighties -- this was done from the late
17 seventies to the mid-eighties, increases at these
18 places that eventually didn't have an increase. I
19 would suggest to you that you take it all with a new
20 look and then judge it for its validity as to whether
21 or not -- there is no intent here to try to mislead
22 you. I am really trying to see what is going on.

23 MR. BUGERA: I live in California City
24 and I have been told on several occasions that I just
25 don't belong out there because of the tortoises. And

1 if people come out for recreation, they don't belong
2 there either. I don't see any tortoises, and those
3 tortoises have gone somewhere. And as I said, they
4 are tortoises. They carry their shells and they are
5 moving around. Let's follow them. I have stuff in my
6 car I could put on a tortoise and track the thing all
7 over the state.

8 MR. LA RUE: I want to show you a little
9 bit about how some of this information is used. One
10 of the things we have -- and again, from the 1984 map,
11 you can see a fine yellow line here that was where the
12 BLM at that time had suggested tortoises occur in the
13 West Mojave. With the information we have available,
14 we now believe that the white areas down in here no
15 longer support tortoises. The green areas may or may
16 not, but the point is that the green area is now
17 what's being proposed as the 2002 range map, if you
18 will. So it's an update over the 1984 thing. And
19 then red areas are kind of unknown and really need
20 more survey to be able to say that tortoises don't
21 occur there.

22 And this is just the way it's depicted in
23 the EIS. Again as showing the 1984 line here, and
24 then the cross-hatched area is the new range.

25 So, this is intentionally scribbled up. I
213

1 used my daughter's paint brush program to draw this.
2 What happens is that when you talk to the grazing
3 communities, they feel picked on. When you talk to
4 the recreation community, they feel picked on because
5 when you are in these meetings, you are focusing on
6 the thing most applicable to them. But the point is
7 we are talking about 20 different known threats to the
8 desert tortoise. We are talking about military, 29
9 Palms and Fort Irwin. We are talking about
10 urbanization, all this kind of purple area occurring
11 from the south, from the Victor Valley to Palmdale.

12 We are talking about agriculture, what's
13 going on around the Mojave River out between the 15
14 and (inaudible). We are talking about -- this is
15 again military maneuvers. What I have shown in the
16 gray areas are the OHV-impact-type areas.

17 Then I have also shown in here what I
18 mentioned earlier is these residential impact areas.
19 I'm sorry, residential areas of vehicle use here at
20 Silver Lakes and so forth, and up in County Corners.
21 So you can see it's not a simple thing where it's just
22 motorcycles or just cows or just mining. It's all of
23 these things cumulatively together affecting the
24 landscape.

25 And fortunately, most of these impacts are

1 outside of the conservation areas that have been
2 identified, like the urbanizing portions down south
3 and so forth. None of the open areas are within DWMA's
4 and none of those are being modified.

5 So the intent of this messy slide is to
6 show you it's multiple things, not just any one thing.
7 So this, again, is I think -- takes 11 pounds and
8 turns it into one page. I don't know how we do it.
9 But what we need to do is protect tortoises where they
10 still are. And we need to try to get them back where
11 they used to be. Those are the two goals we should
12 have.

13 CHAIRMAN KEMPER: Randy Rister.

14 MR. RISTER: I would like to call the
15 attention of DAC members to Volume 1, map 312. That's
16 on page 3-102, about a third of the way through the
17 book. A study was done on tortoise carcass
18 distribution, where the numbers are somewhat in
19 conflict. In part of the narrative they say 1033
20 tortoise carcasses were found. But on the next page
21 or two you will find that that number is 1797
22 carcasses were found. But let's just look at the
23 1033. 43 were found to be crushed, 10 were found to
24 be gunshot wounds, 2 were found dead in a mine shaft,
25 3 were run over by a tank. Now, if you look at the

1 percentage, that's 5 percent or less.

2 You also have 73 predator, 13 raven
3 identified. That's another 8 percent. So what they
4 are telling you is of the 13 percent they can
5 identify, there are still 87 percent of carcasses in
6 that particular study, if you used the 1033 number.
7 If you used the larger number, it's even a smaller
8 percent. It's 5 percent human -- or 3 percent human,
9 5 percent predator. But let's use the other numbers.
10 Let's say 13 percent. The 87 percent of other
11 carcasses that are found are dying from another reason
12 or something they could not discover.

13 If you look at Volume 2 in the appendices
14 starting on the section of "Threats to Desert Tortoise
15 Population," the critical review literature reviewed
16 by Mr. Boarman, you will see there are the three D's,
17 Disturbances: Cattle grazing, mining, OHV, Fish and
18 Game, Fish and Wildlife access, the various access
19 requirements.

20 Then you will see two critical areas that
21 are covered in that. The disease. We know there are
22 the three diseases, upper respiratory tract disease,
23 primarily impacting the Mojave population. The bone
24 disease that is primarily impacting the NECO
25 population. And then there is the herpes virus that

1 is somewhat mixed in between. So you have the disease
2 problem that we are not looking at, we are not
3 studying.

4 In these appendices you will see that there
5 has been some hypothetical conclusions reached about
6 what's causing the disease, the bacteria, the
7 rangeland conditions, predominantly brought on by the
8 drought. There is an excellent synopsis on the
9 drought. This drought has been prolonged. The
10 studies show the tortoises might survive a year or two
11 through the drought. Then the egg production or the
12 female reproduction starts to stop. The testosterone
13 level of the male starts to decline. Reproduction is
14 either reduced or is totally eliminated, so you are
15 not recouping.

16 What happens over a prolonged drought like
17 we have seen, with the exception of maybe an El Nino
18 effect, which, when you look at these declines, you
19 have numbers indicating disturbance; you have numbers
20 that are then lumped together, the 87 percent that
21 could be drought and disease. But it doesn't relate
22 to the rain pattern or the vegetation and regrowth or
23 lack of it due to the drought.

24 What I am suggesting that you do is give
25 careful consideration to the second two D's in those

1 three D's. You do have disturbance, which is at best
2 13 percent, maybe as low as 8 percent. But the major
3 problem which isn't really being studied -- and I
4 brought this up at DAC meetings at Baker and
5 Barstow -- is we have to look at the disease problem
6 and how to handle that. And we have to look at the
7 long-term effect of the drought. Because you may save
8 13 percent by stopping all human disturbance, if you
9 stop all OHV, all Fish and Game or Fish and Wildlife
10 access for managing other wildlife, all mining, all
11 grazing. If you save 13 percent by stopping all
12 that -- which I doubt you could, but if you could --
13 that 13 percent is not going to cause a recovery of
14 the total tortoise population.

15 What we have to do is address the 87
16 percent that is caused by the disease and the drought
17 if we are going to keep this species from going
18 extinct. We are concentrating on the minor issue and
19 not looking at the major.

20 I would liken that somewhat to a comparison
21 between the AIDS-HIV. If we eliminated all bars where
22 people can get together and meet each other, and we
23 eliminated all hotels where they might spread the
24 disease, we aren't going to stop the spread of HIV or
25 AIDS until we have some type of control over the

1 actual contact that is spreading that disease.

2 And I see that type of similarity between
3 the tortoise problem. If we don't handle the disease
4 and we don't do something about habitat restoration
5 during this drought period until Mother Nature brings
6 back the rain, the 87 percent that is apparently lost,
7 that's the reserve of tortoises that is going to cause
8 this species to recover, not the small 13 percent
9 caused by disturbances.

10 So when you look through these articles and
11 appendices, don't just review and think if we stop all
12 human activity, that's going to cause a recovery.
13 That's a small percentage compared to overall. The
14 figures that the Kristin Berry and the other
15 biologists are showing us, you can dispute those,
16 whether the numbers ever existed out there to begin
17 with or whether the scientific study is accurate.

18 The truth is, there is a major decline. Ed
19 has been studying it a number of years. He knows,
20 there is a decline occurring. You can argue the
21 numbers how many were out there and how many are left,
22 but there is a decline.

23 What I am getting to is what is really
24 causing that decline? Is it predominantly the human
25 disturbance or is it predominantly the disease and the

1 drought? And if it is the disease and the drought and
2 that is causing the reproduction problems and the high
3 rates of mortality, we have to get our act together
4 and start addressing the real problem and quit
5 focusing on a minor issue that isn't going to
6 formulate a recovery.

7 (Applause from the audience.)

8 MR. LA RUE: One thing I would caution
9 you on is a conclusion that was never made in this
10 document. And that's your use of the 87 versus 13
11 percent. In effect, what we are able to say is that,
12 whether it's -- probably what you will find is two
13 different sample efforts. There are 1033 found during
14 our surveys, and when you add the other 600 or 700
15 that the distance sampling people found, those are
16 probably the difference between the two numbers.

17 MR. RISTER: That is.

18 MR. LA RUE: That's the reason for that.
19 But collaboratively, there are two different survey
20 efforts, ours during '98, '99, 2001. Distance
21 sampling was done in 2001 and 2002. When you compare
22 those data in terms of findings, they are very, very
23 similar. And in biology you don't find that thing.
24 It would almost seem like a conspiracy. So originally
25 what I meant to say was that we can only say the cause

1 of death for 10 percent of the carcasses we found.
2 Anything more than that is speculation in terms of
3 there only being human impacts affecting 10 percent of
4 the carcasses. We don't know, and I think it's to the
5 credit of the biologists that they didn't just assume
6 the cause of death for those other tortoises. It was
7 only 110 or so tortoises where the cause of death was
8 determined in the field.

9 So that's not to be confused with human
10 impacts that only affected 10 percent of the
11 population. It means that the carcasses that we
12 found, 10 percent could be attributed to one form or
13 another of the things you read.

14 And I do think it's good they didn't
15 attribute them to unknown things that they couldn't
16 identify. But whether you look at Boarman's study or
17 Hamilton's study or Berry's study or any of the
18 studies, they all point and make inferences that the
19 drought is exasperating the health of the tortoise
20 population. And when the drought spreads,
21 reproduction goes down and the susceptibility to the
22 threat of disease increase.

23 So it appears that if you can't identify
24 bullet holes and car crushes and you can't find them
25 in mine shafts and you can't find them crushed by

1 cattle, something else is killing them. And it
2 appears that in all the literature is that the
3 inferences from all the biologists is it's the
4 diseases or something caused by the habitat conditions
5 brought on by the drought. Without food they are
6 going to starve. When they are in a state of
7 starvation, they don't reproduce.

8 In California City where you are seeing the
9 young, you are seeing some rain patterns that have
10 improved vegetation so that the hatchlings that are
11 coming out have a chance to feed and survive. In some
12 of these other drier areas where those rain patterns
13 are not being assimilated or correlated with the
14 deaths, you will find once you ever start correlating
15 the recovery of the vegetation based upon rain
16 patterns, you are going to find that this moving death
17 pattern is related to the drought which exasperates
18 their dietary conditions, puts them in a state where
19 their health is somewhat lowered, reproduction rates
20 go down, and then the diseases that are out there hit
21 them hard and they are dying off.

22 So I still believe until we get a handle on
23 the disease and do some habitat work, possibly do some
24 captive breeding, and relocate some of these young
25 tortoise that are disease free into some manipulated

1 habitat that will feed them, we are not going to see a
2 recovery no matter what we do. The big issue is still
3 the disease and the drought.

4 CHAIRMAN KEMPER: Ed, though I know that
5 most of the studies that have been done here in our
6 conservation district haven't dealt with the
7 percentages of cause of death, I don't believe that's
8 true in Clark County, which shares kind of the same
9 population of tortoises. Can you share with us what
10 that study found?

11 MR. LA RUE: No, I'm not familiar with
12 it. In Clark County they have similar information
13 that shows the cause of death?

14 CHAIRMAN KEMPER: I believe they had it
15 broken down as to percentages of death.

16 MR. LA RUE: I'm not familiar with that.

17 CHAIRMAN KEMPER: Gerry, are you
18 familiar with that?

19 MR. HILLIER: I saw the presentation at
20 the MOG meeting up in Las Vegas in February. To be
21 honest with you, Ron, I just -- it would be erroneous
22 for me to even speculate on the numbers there. There
23 was a similar pattern. The disease has emanated there
24 too. Well, they had predation, they had disease, and
25 they had -- they have almost eliminated public land

1 use there over the past decade, so that's almost gone
2 by the bye.

3 CHAIRMAN KEMPER: I saw the
4 presentation. I don't remember the numbers exactly,
5 but I think disease was close to 80 percent and
6 predation was another 10 or 11 percent and then
7 everything else was the remainder.

8 MR. HILLIER: Right.

9 MR. LA RUE: I think one thing to be
10 aware of, I have been focusing on carcasses, but we
11 also saw 275 live animals, so that's how many we came
12 across. And of those, only seven, which is about
13 3 percent, showed signs of disease. So again, if you
14 are just going to look at the data, which I'm not
15 willing to just stop there at that, you could see that
16 disease is only affecting 3 percent of the population.
17 What I would say is in the live animals that we saw,
18 disease was clinically expressed in 3 percent of them.
19 And it was 2.7 percent for our effort and 3.2 percent
20 for the distance sampling effort. So those were done
21 in the spring and fall, but the comparisons are very
22 similar in terms of animals seen with the disease.

23 But the available information is not that
24 every animal or even a great percent of live animals
25 have clinical symptoms.

1 MR. HILLIER: On the other hand, there
2 is the question that can be raised: Many of those
3 that were initially affected with the disease died and
4 are out of the population now, and the ones that are
5 there are basically the ones who got over it.

6 MR. RISTER: I think that further
7 studies are showing, like for the Homer study where he
8 did, I believe, 31 necropsies on both diseased and
9 nondiseased tortoises, he found things like kidney
10 stones, which is a sign of lack water. We know
11 tortoises will drink free water when it rains. We
12 know they need a certain type of vegetation to remain
13 healthy. Through the prolonged drought, you may have
14 lost your diseased tortoises first. Now you are
15 starting to see starvation.

16 But I think in California City where the
17 fence is, shows that where you have no OHV activity,
18 you still had these major declines caused by the
19 disease and drought, but when the rains came back and
20 the vegetation improved and the clutches were able to
21 be reproduced, you are now seeing young tortoises
22 recovered, and they appear to be disease free.

23 Maybe the disease is a natural occurring
24 factor that Mother Nature puts on the tortoises
25 through these constant cycles of droughts and rains

1 coming back over the last 10,000 years that the
2 tortoise has evolved. And as you see the area go from
3 a savannah to a desert and becoming drier and drier
4 over time, maybe we are going to see this dwindling
5 population and not the full recovery to the numbers
6 that were at one time. But what we are going to have
7 to do is really address saving the tortoise, look at
8 what do they need for feed and what can we do about
9 the disease and try to tackle the big issue and quit
10 focusing all our time and money on what I consider the
11 disturbance issues, when if we don't solve those there
12 are not going to be enough left if we don't get a
13 handle on the disease and drought first.

14 MR. LA RUE: Yes, and I agree. I think
15 most of that is accurate. But the new information
16 that is available, and I find it compelling, is we
17 surveyed 350 square miles north of 58 and west of 395.
18 And 13 of the 14 subadult animals were within that
19 fence up there. So the climactic factors -- and I
20 think that's probably part of it. You look to the
21 west, it's pretty well understood the further west you
22 go, the least amount of rain you get.

23 It's plausible that disease broke out in
24 this area and then spread. We don't know that.
25 That's what I have suggested in the document. We want

1 University of Redlands to really test it because it's
2 in the Neanderthal approach I've used. But I still
3 find it very compelling that in an area of 350 square
4 miles, that all the reproduction is going on inside of
5 the fenced area. And again, why, is the question.
6 And I don't know.

7 I mean, it would probably -- it sounds like
8 grandstanding if I said what I suspect. But I think
9 it's very interesting.

10 MR. RISTER: It could be the rain came
11 back.

12 MR. LA RUE: But just inside the 30
13 square miles?

14 MR. RISTER: Well, that seems to be one
15 of the greener areas. Until you have a correlation of
16 rain patterns and tortoise recovery, you really aren't
17 studying the recovery of the vegetation as a factor of
18 the recovery. You are not looking at the drought
19 properly until we get it tied to the rain patterns and
20 the drought conditions that have occurred over the
21 last decade or two

22 MR. BUGERA: You say you did 350 square
23 miles. How much of that is fenced?

24 MR. LA RUE: About 30, 40 square miles,
25 44 square miles.

1 MR. BUGERA: So then your study wasn't
2 predominantly inside of a fenced area?

3 MR. LA RUE: No.

4 MR. ELLIS: I was interested in your
5 data which seems to show that the live tortoises were
6 actually as a population area moving north. Could you
7 speculate a little bit more about that? Does that
8 mean -- well, most of the populated areas are to the
9 south. The less impacted areas in terms of
10 disturbance are generally toward the military bases to
11 the north and to the northeast.

12 On the other hand, Fort Irwin is tending to
13 churn up a considerable amount of area, and it seems
14 like directly in the path of where these tortoises
15 might be moving. Is that going to cause even more of
16 a disruption on their population area than we thought
17 if they are sort of moving in that direction, about to
18 be churned up a bit?

19 MR. LA RUE: My take on it is that they
20 are not moving at all. That this indicates where they
21 have been eliminated. I mean, there is not a whole
22 lot of information to show how prevalent tortoises
23 used to be down in the southernrn part of this area.
24 In 1984 it was considered habitat, but at the moment
25 there is no data to support it as occupied habitat.

1 It happens to be the place where most of the
2 urbanization, particularly out in the Antelope Valley,
3 farming and stuff, have gone on. So I think rather
4 than the entire population shifting to the north, it's
5 actually been eliminated from the south, and the
6 southwest in particular, and probably what you are
7 seeing up here, it's not showing the tortoises have
8 expanded beyond this yellow line since '84.

9 I think this is what someone mentioned here
10 about the extrapolation that went into the 1984 range
11 map. There was data, and basically what this is based
12 on -- I didn't meet with all the environmental
13 managers -- but this is based on data points where
14 tortoise scatter and burrow was seen. And some of
15 that data was pre-1984. But the line for whatever
16 reason didn't go that far north. So I think this case
17 up here is a more accurate representation and down
18 here is probably a documentation of a demise, but also
19 suspect as to whether tortoises were out here in '84
20 in the first place.

21 MR. RISTER: One more question, Ed. In
22 the fenced area or in the areas where you are actually
23 seeing recovery, what do you notice about the
24 predator? Did the drought and the loss of the
25 tortoises also show a decline of predators, or are you

1 seeing a removal of ravens in the area where you see
2 the tortoises recovering?

3 MR. LA RUE: I think that would get to
4 the carcasses we found, mammalian predation or that
5 kind of thing. That's probably the only data we have.
6 We didn't collect information on the occurrences of
7 ravens or coyotes, so I'm not sure what information we
8 have.

9 MR. RISTER: Isn't there an active raven
10 removal inside the fence?

11 MR. LA RUE: No, there hasn't been one
12 since '89, and it was Ted Rota -- with the BLM study
13 that Ted Rota headed up in '89 and '90.

14 MR. RISTER: Is that because they
15 haven't returned in numbers since they were --

16 MR. LA RUE: We can't fool with them
17 because they are protected by another act. But I
18 don't think there is an active raven removal program
19 at the moment.

20 CHAIRMAN KEMPER: As part of your study
21 areas, you also had polygons on grazing allotments?

22 MR. LA RUE: Yes.

23 CHAIRMAN KEMPER: Part of the things
24 that you studied were occurrences of vehicle traffic.
25 Did you find that there was more vehicle traffic or

1 less vehicle traffic on allotments or dumping or those
2 types of uses?

3 MR. LA RUE: You know, it would be
4 dishonest to try to answer it. But what I would say
5 is the data are available. We could look at that. I
6 don't think we have looked at that yet to see what the
7 relationship of grazing is with OHV use. I mean, we
8 have some information like the BLM is showing through
9 the analysis, in this area there has been a 27 percent
10 increase of vehicle impact since 1979, '80, just based
11 on aerials and looking at trails and roads and so
12 forth. But the allotment is right about there. It
13 doesn't quite get all the way down to the south part.
14 But the beauty is we can go back and ask those
15 questions.

16 CHAIRMAN KEMPER: One other question:
17 Has it ever been studied or thought about as grazing
18 has been eliminated, populations of tortoise have
19 crashed, and has the beneficial uses ever been
20 considered?

21 MR. LA RUE: I don't know. It's
22 certainly a common criticism, and there are things
23 that you could say on both sides of the argument, if
24 you will. If sheep grazing were eliminated by fencing
25 the area and therefore tortoises are coming back, but

1 at the same time I could see that sheep grazing was
2 eliminated over here as well, and we don't see them
3 coming back on the east side of 395.

4 CHAIRMAN KEMPER: Actually what my
5 statement was in regards to, in sheep grazing -- and
6 I'm glad you answered that -- but actually there have
7 been a lot of allotments, cattle grazing allotments
8 acquired or eliminated for the benefit of the
9 tortoise. But after the cattle was removed, there
10 were even greater crashes. So we have seen as we have
11 eliminated grazing in the Mojave, we have actually
12 seen a decline in tortoises.

13 MR. LA RUE: It's hard to know if there
14 is a cause-and-effect relationship there. I mean,
15 that's the same thing, regardless of the argument that
16 you are making, if I were to say that I see this and
17 see that and therefore this must affect that, we don't
18 really know if the crash -- maybe the crash had
19 started a long time ago and it just happened to
20 coincide with the time that you removed the animals,
21 is one thing.

22 But Dr. Olaf Offerdahl with the Smithsonian
23 Institute is concerned that removing cattle right now
24 would not make a difference because we have already
25 disturbed the lands, that the natural forage is no

1 longer there in terms of the forests and the nongrass
2 species.

3 CHAIRMAN KEMPER: What my question was,
4 Ed -- and I wasn't trying to put words in your
5 mouth -- if it had been studied or not, if the
6 correlation had been studied.

7 MR. LA RUE: I think it's lacking. I
8 really think in these places where sheep have been
9 removed since 1991, there was a prime opportunity to
10 go study that. But it hasn't been done.

11 CHAIRMAN KEMPER: I have been handed a
12 note that it's probably time for public comment, if
13 everybody would like to hand in their speaker slips.
14 And I think our court reporter would like a break. So
15 I'm going to take a break for about ten minutes.

16 (Brief recess was taken.)

17 CHAIRMAN KEMPER: Ed, I want to thank
18 you for coming. It's always very informative. I
19 appreciate your help with the very serious problem.

20 Does anybody else have any questions for Ed
21 LaRue? And I think Ed will hang around a little bit
22 if you want to discuss anything with him. You have a
23 question for Ed?

24 MR. MATTHEWS: I was going to do it
25 under public comment. Dave Matthews. I want to look

1 a little bit to the east here in the Mojave Desert
2 Preserve. Is there or has there been tortoise habitat
3 in that area now encompassing the Mojave Desert
4 Preserve?

5 MR. LA RUE: Yes.

6 MR. MATTHEWS: Is there tortoise there
7 now?

8 MR. LA RUE: There have been one year of
9 some distance sampling data that were collected by the
10 National Park Service. I think Pete Whitman and his
11 crews were out there doing it. They don't quite have
12 the kind of data we have in terms of covering broad
13 regions. They had transects done, and they are
14 supposed to estimate a density, but it's kind of
15 outside our planning area.

16 MR. MATTHEWS: The reason I'm bringing
17 that up is along with what Jon McQuiston was inferring
18 earlier, that maybe in the recovery plan for the
19 tortoise, we need to look at all of these areas, not
20 just the West Mojave or Clark County and some of these
21 other places. That's my point there --

22 CHAIRMAN KEMPER: Thank you. Any more
23 questions from the Council for Ed LaRue?

24 MR. RISTER: First of all, I want to say
25 thank you to Ed for making an excellent presentation.

1 I have been coming to DAC meetings for it seems like a
2 couple of decades. And all during the time that he
3 has been here, he has been forthright and honest. I
4 think his studies are concise and to the point.

5 One of the questions I have, though, Ed is
6 what can we on the DAC possibly do to help you get
7 additional support from your bosses to tie in some of
8 your studies with rain patterns, with food supplies,
9 with possibly some captive breeding programs, some
10 young tortoise releases into some managed habitat so
11 they will have a chance to grow? Is there something
12 we can do to recommend? And who do we go to to
13 possibly facilitate tying something like that into the
14 further studies?

15 MR. LA RUE: Even though I don't really
16 like academia, the thing that really appeals to me is
17 to really get some statisticians and academics
18 involved in looking at what I am just suggesting is
19 kind of a layman's suspicion, if you will. I always
20 cringe when people call me an expert. I actually have
21 a master's degree in bugs, entomology. So I don't
22 really know in that respect.

23 But all of this stuff, I think before we
24 jump on bandwagons and start doing a whole bunch of
25 stuff, it needs to be proved, qualified, or validated.

1 And I'm not sure what role you guys could play in
2 seeing that happen. But I really am trying to get to
3 the root of what is going on out there. And this
4 approach needs to be abandoned or modified or
5 something done to it, if you will, to see if it's a
6 way of really determining it.

7 But I look at this crowd and the audience
8 and stuff. If we applied this polygon thing to this
9 group, I think we would fairly well show where people
10 are sitting and where they are not sitting. And
11 that's really all I'm trying to do is try to figure
12 out where things are and are not happening. But the
13 resolution we need to make needs to be qualified by
14 academia.

15 And we said in the draft plan that that
16 would be done and would be reported in the final. But
17 I don't know that that will happen. So I would say
18 University of Redlands, those guys, again I don't know
19 what the interaction between this group and that would
20 be.

21 MR. RISTER: From a time standpoint of
22 plans before us, the NECO Plan has already been
23 adopted? And we have these other plans. Time is of
24 the essence, and how much time do we have to actually
25 do some of these things, get the information

1 validated, before we recommend on making any further
2 decisions that may not be based upon good science?

3 MR. LA RUE: I was suggesting if you do
4 have pull, to try to push towards the validity thing,
5 to try to somehow encourage this. I think it would be
6 a stronger document or it would reveal that I'm full
7 of it, which I'm still willing to concede.

8 CHAIRMAN KEMPER: Having spent a couple
9 evenings with you out in the desert, I can testify to
10 that.

11 MS. HANSEN: Ed, maybe just as a point
12 here for discussion, the DMG has been doing some work
13 with the MOG in looking at effectiveness monitoring
14 techniques. And I thought one of the things that was
15 going to come out of that was maybe some of this
16 validity type of testing you are talking about here.
17 Is that your sort of take on what some of that work is
18 that we are undertaking with Redlands Institute?

19 MR. LA RUE: I'm supposed to be on the
20 team.

21 MS. HANSEN: Your name has come up.
22 Would that begin to reach some of the questions that
23 we have talked about today?

24 MR. LA RUE: You know, I apologize,
25 because I know there has been one meeting with that

1 group and a phone conference. And I couldn't attend
2 either one of those. So I'm not really up to speed on
3 what the intent of the effective monitoring is. I
4 thought it had to do with where and what has been done
5 and what is the response. So if that is the case, I'm
6 not sure how well this would help. It's good
7 information for proactive looking in the future in
8 terms of what we can do. The thing that really
9 bothers me most about this is people's need to say,
10 that's what you saw, so this is what happened. The
11 crystal ball in the future -- I don't know what the
12 backward glance thing is, but it's no clearer. I
13 mean, we can't say it's just disease. We can't say
14 it's just disturbances. We have this stuff as a
15 picture to suggest things, but it all comes down to
16 interpretation.

17 MS. HANSEN: Do you believe that the
18 information that's been gathered, both the historic
19 stuff and now this newer data has been gathered, is
20 that enough to hand over to some group of
21 statisticians and academia to really do any kind of a
22 validity testing on?

23 MR. LA RUE: Sure.

24 MS. HANSEN: So there is enough
25 compilation now that we would feel somewhat confident

1 in handing that out?

2 MR. LA RUE: Yes. What I have done, I
3 keep calling it the Neanderthal approach, but the
4 polygon thing, that was just something that occurred
5 to me. But the way it should be done is something
6 called treeing (phonetic). That's where the computer
7 actually figures out associations and produces these
8 polygons that I have been doing mechanically. So
9 that's one possibility, and that could be done
10 tomorrow, to see if you get the same areas.

11 And we have given that data to the
12 University of Redlands so they have that on their
13 system. And the main thing we said in the draft is
14 that they will make a determination in the final. But
15 I don't have a sense that that's going to happen
16 without some influence or leverage or some concern
17 expressed, if you will.

18 MS. HANSEN: Okay, thanks.

19 CHAIRMAN KEMPER: Thank you, Ed.

20 MR. PRESCH: Can I make a comment?

21 CHAIRMAN KEMPER: Yes, sir. From now on
22 when you take a mike, would you bring it back when you
23 are done?

24 MR. PRESCH: I like Ed's presentation
25 very much. And I like his data. And I think there is
239

1 a lot that could be done with that data using a number
2 of statistical programs. But I just want to caution
3 on the discussion that just went forth.

4 Yes, there has been a lot of collection;
5 yes, there is lot of data from 1980. But you don't go
6 out and collect data, then go to a statistician and
7 say, "Here, analyze it." That is typically the way
8 it's done. And that's all wrong.

9 What you do is stand there and say, "What
10 is the hypothesis and what kind of test am I going to
11 want to do statistically?" Then you go out and
12 collect the correct data.

13 Most of the data that's in the literature,
14 if it's all put together, most of it will probably
15 have to be thrown out because it's incorrect and it's
16 not consistent across the board. You have to look at
17 sample size and you would have to look at whether you
18 are going to use NOVA or ANOVA or multidiscriminate
19 function analysis as to what kind of data you have and
20 whether it's applicable to the statistical test.
21 That's why you have to start with the test first and
22 then the data.

23 I think one thing that's really interesting
24 about Ed's is he didn't try to do the Chi squares, the
25 two-tailed tests, et cetera, because his data was

1 merely there to show whether the animal is present or
2 absent. And that's the kind of thing he has done.

3 What he has been able to show is, yes,
4 there are tortoises and they are in particular areas.
5 Now, whether it's being contributed to decline -- the
6 decline is obviously real. You don't need statistics
7 for that. All you have to do is look at the real, raw
8 data. So there is a decline.

9 Now, the question is, are the tortoises we
10 see in Mojave in refugia, and if they are, those are
11 the ones that had survived the climactic disaster, if
12 you will. And if things do turn around climatewise,
13 are they again going to expand? Those are the kinds
14 of questions that are very interesting to ask. But
15 they take time to solve. Not two years or five years
16 or ten years. Tortoises don't reproduce until they
17 are eight, nine, ten years old. So you have a minimum
18 time span of ten years on a neonate that just came out
19 of a shell. So you are going to have to do a study
20 for 40, 50, 60 years before you have defined data.

21 That means you have to go and monitor, and
22 you presumably will be able to identify each one of
23 those animals through that period of time. It's very
24 easy to do with pit tags and other kinds of devices
25 you are going to have in the animal or on the animal

1 to track and locate. Even from satellite in some
2 cases.

3 So you have to be careful about whether
4 there is enough data. It depends on what you are
5 going to do with it. And how you analyze it will
6 depend on what or how and what the method was to
7 collect the data.

8 MR. BETTERLY: I'm not going to be here
9 in 50 years.

10 MR. PRESCH: Neither am I. But we have
11 to think of the future. Next generation, your
12 granddaughter's son, not your granddaughter.

13 MR. BETTERLY: Grandsons.

14 MR. PRESCH: His kids.

15 CHAIRMAN KEMPER: Okay. I have reviewed
16 all the slips. Given the amount of slips, I would
17 typically limit the amount of minutes except everybody
18 did give a time estimate and there are several here
19 that are one minute, two minutes, and then a couple
20 that are seven or eight minutes. So I am going to try
21 to let everybody talk as much as they need to about
22 their subject, but I will make you aware that I will
23 kind of look at the time estimate that was on your
24 card and I may have to make some adjustments.
25 Mr. Hillier?

1 MR. HILLIER: Thank you, Mr. Chairman.
2 I hadn't planned to make a comment earlier, but I
3 understand when I was out in the hall answering a
4 question there that Ed threw a spear at me about PILT
5 and I wanted to respond to that.

6 CHAIRMAN KEMPER: Just to -- I'm not
7 sure that Ed actually threw a spear. He was asking a
8 question.

9 MR. HILLIER: I am teasing. And I
10 probably shouldn't. At any rate, PILT, as I indicated
11 earlier, is a pretty complex subject. I first really
12 became involved in PILT when the San Bernardino Board
13 of Supervisors asked me to explore why they were the
14 largest county in the lower 48 with public lands, and
15 yet they were No. 3 in terms of PILT allocations in
16 California. And most importantly and critically, in
17 terms of rivalry, why Riverside, with one-third of the
18 acreage, got more PILT than they did.

19 As a result, I dug into the formulas and I
20 dug into what land acquisitions were doing. Last
21 winter an associate of mine did complete a tract by
22 tract study in the San Bernardino County Treasurer's
23 office and did determine that the county was losing
24 approximately \$200,000 -- the numbers escape me -- a
25 year in PILT from the acquisitions that had taken

1 place through last year.

2 MR. SMITH: Is this the Wildlands
3 Conservancy?

4 MR. HILLIER: A good share of it was,
5 although he did get into the Park Service acquisitions
6 of the ranches out there and some acquisitions in the
7 Forest Service. We didn't make a distinction in terms
8 of the source of acquisition. All we did was it was a
9 transfer from private ownership or public ownership or
10 tax exempt ownership. So that was -- that was the
11 number in round figures. And I did make that figure
12 available to the members of the Board.

13 There has been -- and we just got the PILT
14 book last week and have just begun the analysis of it,
15 and there have been further acquisitions, about
16 640,000 acres over a four-year span, but I don't have
17 the tax figures on that.

18 I indicated earlier San Bernardino County
19 was probably not a good example because it was
20 Catellus land, and that was a stock transfer, and
21 therefore, was on the tax rolls at the old Southern
22 Pacific Land Company tax rate pre-Prop 13. Other
23 counties and even future acquisition of San Bernardino
24 County might well have a more negative effect if they
25 were on the tax rolls at fair market value or full

1 assessed valuation. And there are ups and downs of
2 that, and it can fall out differently anywhere in the
3 United States.

4 The one point I wanted to make is, yes, we
5 have looked at it. It is about 200,000 a year. On
6 the output side, the County does not make a
7 distinction when they get their PILT check, how that
8 is dispensed. It goes into the general fund.

9 What I can tell you in San Bernardino
10 County is that to a large extent that money gets spent
11 back out for sheriff's patrol, flood control
12 maintenance, search and rescue, and a variety of
13 emergency services that take place in the desert area.
14 So other than that, being \$200,000 short and having to
15 be made up, because generally with the land
16 acquisitions, there is not a decrease in the demand
17 for those services. So the shortfall has to be made
18 up from somewhere else, whether other tax revenue,
19 other fund sources is the thing that the board goes
20 through on an annual basis. But it's around \$200,000
21 a year for the acquisitions that have been in the last
22 three years.

23 CHAIRMAN KEMPER: That's for San
24 Bernardino County. I'm not sure everybody understands
25 the difference between a title transfer and stock

1 transfer and what it means to the county as a tax
2 base.

3 MR. HILLIER: Well, what happened on
4 Prop 13 is that when the land -- you know, I buy a
5 piece of land from you and it goes on the tax rolls to
6 me at 1 percent of fair market value based upon our
7 sale price.

8 CHAIRMAN KEMPER: 1.3.

9 MR. HILLIER: Okay. When there was a
10 stock transfer, which is the way Catellus was spun off
11 of Southern Pacific Land Company, and I don't know
12 whether it was the law or whether it was the courts
13 that ultimately held that when it was a transfer that
14 involves simply a stock, that land was not deemed to
15 have been sold and therefore, the assessed valuation
16 that was present in 1974 remained into effect up until
17 the time that it passed from private ownership,
18 Catellus, to the federal government. So it was being
19 taxed at the same rate, with that 1 percent annual
20 increase or 2 percent annual increase that's possible
21 under the law.

22 MR. BETTERLY: The value was the '74
23 value.

24 MR. HILLIER: It was the '74 value
25 basically still in place when the land was

1 transferred. So the Catellus thing was kind of an
2 anomaly when you look nationally. The congress is
3 working on HR 380 trying to rectify that, but that's
4 another story and we will save that for the fall.

5 CHAIRMAN KEMPER: Very good. Thank you,
6 Mr. Hillier. Robert Strub.

7 Before you get started, Robert, I have
8 two slips for you, one on the agenda and one off the
9 agenda; is that correct?

10 MR. SHRUB: That's correct. On the
11 agenda is the WEMO, and off is a separate item.

12 I will start off with the nonagenda item as
13 far as distribution goes. And I have these documents
14 here that you can pass around with one for you, and I
15 also have this document here.

16 CHAIRMAN KEMPER: Not to confuse
17 everybody, but up to this point, we have everything
18 that was on the agenda. If you could move forward
19 with your agenda item. And then all the other
20 speakers are going to speak to things not on the
21 agenda.

22 MR. STRUB: Well, then there is this
23 document here, which if the secretary can get it to
24 you, it's a BLM document on sustainable development.

25 On the agenda, it has to do with WEMO, it

1 has to do with fees. And a lot of time when you want
2 to cure something, you say, okay, this is the cure.
3 We are going to have this mitigation ratio. The low
4 is going to be half to one. The high is going to be
5 five to one. The range in that is around -- between
6 the high and low is ten to one. But a lot of times in
7 different situations, you give that cure to a
8 different beast. And it's like Inyo County versus
9 L.A. County. And they are made up differently and you
10 can have adverse impacts if you just give it that cure
11 without the buffer in there.

12 So I want to make this comment relating to
13 that. I think the fees are too high for some areas.
14 A fee for a 20-acre claim, such as a mining claim, is
15 going to get disturbed in a five to one conservation
16 area at this rate that's set as example in the papers
17 handed out today is \$77,000. That's 20 -- in Clark
18 County it would be \$11,600. In Inyo County, it would
19 be \$77,000. That is almost seven times higher.

20 Private lands in Inyo County in the West
21 Mojave Plan make up less than 4 percent. In the
22 remote areas where Catellus was, where the exchange of
23 640,000 acres was transferred to the US Government
24 after monies were paid in the amount of roughly \$60
25 million, has a value of around \$110 per acre. If the

1 ratio here was five-to-one, then the cost should be
2 \$550 as a mitigation ratio, based on its value --
3 that's a relative value -- and not the proposed
4 \$3,850.

5 So the remote areas will effectively be
6 paying a local, compared to their local value, their
7 ratio will be 35-to-one. This is not a nexus. This
8 is a buy-in at the cost of the minority in the more
9 remote areas where there are less votes.

10 What you need is a local floor and a local
11 ceiling to act as a buffer. And the local ceiling
12 might be ten-to-one compared to the local value. And
13 the local floor might be .1-to-one. So that would be
14 the floor. You wouldn't pay less than a tenth of the
15 assessed value of the property as a mitigation. And
16 you wouldn't pay more than ten times the assessed
17 value. So the ratio there is 100-to-one, where the
18 proposed in the WEMO was ten-to-one. And you still
19 keep the ten-to-one -- the proposed one, but you would
20 still have the outside buffer so you cover your
21 extreme situations. And that's what I am saying in
22 that one.

23 Do you want me to comment on this one a
24 little later or now?

25 CHAIRMAN KEMPER: Actually, you are the

1 last one talking to the agenda item, so you can move
2 into your nonagenda item at this time.

3 MR. STRUB: This is regarding what I
4 call the quarterly report, which comes out from the
5 Ridgecrest Regional Office here. And on Item 5, they
6 talk about the royalty relief. So I consider it an
7 official part of this meeting because you pass out
8 those agendas here.

9 And basically, I'm an individual who
10 resides in Trona, California. Trona is in the
11 California Desert District. There are concerns about
12 funding continuing from royalties on public lands.
13 These funds are divided between the State of
14 California and two public school districts. The State
15 of California gets 50 percent of the royalties, and
16 the two school districts get the other 50 percent.

17 An application for royalty relief has been
18 submitted by IMC Chemical Company for royalty relief
19 of 60 percent, which is the maximum amount. This
20 would reduce the monies that Trona Joint Unified
21 School District receives to 40 percent of what it
22 would normally receive. I stand against this request
23 for royalty relief because it would hurt the school
24 district, and other public entities who receive a far
25 greater share of the benefits are giving nothing.

1 In the last ten years, the IMC Chemical
2 Company and its predecessors have reduced the
3 royalties by 60 percent. This has been done by
4 drilling wells on their own lands and shutting down
5 wells on public land. They have already reduced
6 royalties by 60 percent by their own actions in
7 closing wells on public lands. And now they want the
8 BLM to reduce royalties another 60 percent, leaving
9 the State of California and two school districts at 16
10 percent of where they were ten years ago. That's 40
11 percent times 40 percent equals 16 percent. This is
12 irresponsible to the community they mine in and
13 reduces the sustainable development of Trona.

14 Now, sustainable development was adopted at
15 the Earth Summit held in Rio De Janeiro in 1992. The
16 precepts of sustainable development are specified in
17 the framework document from that summit and is known
18 as Agenda 21, which is a 300-page document. The
19 request for royalty relief in this situation hurts the
20 sustainable development. It does this by diminishing
21 the level of education of the children who will become
22 adults with less ability to be self-sufficient. And
23 this affects sustainability.

24 Trona is a poor community where the average
25 assessed value of a single-family dwelling is 1/10th

1 that of the average of California. We are a small
2 school. We have a high percentage of students from
3 low income families. We have a low percentage of
4 households with parents who are college graduates. We
5 are in the State of California, where the percent
6 doing better than the national average is less than 40
7 percent, and we are in the bottom five states in the
8 nation for scholastic or student performance.

9 We are in the County of San Bernardino,
10 where the percent doing better than the national
11 average is less than 35 percent. And we are in the
12 bottom five counties in the state for student
13 performance. The parameters of who we are suggests
14 that our performance would be below average for the
15 County of San Bernardino and the State of California.

16 But we are doing better than the national
17 average, the state average, and the county average.
18 This is due to the efforts on the part of our
19 communities and our school district administrators and
20 teachers. The results of the SAT 9 in the last five
21 years have improved dramatically. Last year more than
22 57 percent of our students throughout the grades
23 tested better than the national average. Five years
24 ago, we were at 34 percent. We have improved twice as
25 fast as any other district in all of San Bernardino

1 County.

2 Various officials say that we have been
3 wasteful of the monies we receive, and therefore, the
4 smallest unit of government shouldn't have its total
5 budget reduced 20 percent. What those officials are
6 really saying is they are tired of asking other
7 districts why they are not improving and having them
8 point at Trona and saying, we don't have as much as
9 Trona has. This is no reason to take away what is
10 ours.

11 The IMC Chemical Company is claiming that
12 it is near a state of collapse. I want to make this
13 clear. I do not argue the point one way or the other.
14 The market of soda ash has been very competitive with
15 over 20 companies shutting down in the last few years.
16 But who else is giving relief? The smallest unit of
17 government is giving the highest percent of its
18 budget, 20 percent. There are other alternatives, and
19 you should ask the question of what about relief in
20 property taxes.

21 The population of Trona is close to 1800
22 people, while the population of San Bernardino County
23 is 1.8 million. We make up 1/1000th of the county in
24 population, yet within the school district boundaries,
25 are the fourth and fifth largest assessed values in

1 the whole county.

2 IMC Chemical Company is No. 5 because it's
3 the fifth largest assessed value. It means it is less
4 than 20 percent of the total value of the whole
5 county. If the county thinks that helping IMC
6 Chemical is important, then they should reduce their
7 property taxes by 60 percent for as long as the
8 royalties are reduced. They should match the State of
9 California and the Trona Joint Unified School
10 District.

11 There are other revenues, such as property
12 taxes on ACE Cogeneration that is in our school
13 district that would not be affected, and it's the
14 fourth largest assessed value in the county. The
15 county would still have the lion's share, free and
16 clear, without reduction for relief.

17 I want the Desert District Advisory Council
18 to review this matter at a meeting and determine the
19 equity of who provides the relief when others, who
20 receive much more of the benefits, give nothing.
21 Making our community attractive to move to will help
22 sustain its existence and development. We have the
23 fourth and fifth largest assessed values in the
24 county. However, the county has removed these
25 industrial assets from our tax base, while they are

1 still in our school district.

2 Equity is a fiduciary duty of a federal
3 entity who is a party to the International Agreement
4 for Sustained Development. When the federal
5 government gives to a specific community, that is
6 important to other units of government, and that
7 benefit from that action. It is not unusual for it to
8 ask others, give also to share the burden and to
9 increase the chances of success.

10 I want the California Desert District
11 Advisory Council to consider the question of equity
12 and the burden of sustainability. That question
13 should be in two parts: What are you doing now in the
14 present for the sustainability of Trona? What have
15 you done in the past towards the sustainability in
16 Trona, such as services? If equity is not apparent,
17 then I request that the California Desert District
18 Advisory Council advise for the elimination of the
19 relief or the reduction of the relief by an action of
20 its members. You could simply put conditions for your
21 support in an action.

22 Ladies and gentlemen, I ask you for a
23 healthy, prosperous and beautiful desert from one of
24 your oldest communities and one of your most generous
25 communities. We have been beneficial to the historic

1 prosperity of Southern California. At one time Trona
2 accounted for half the values exported from the Port
3 of Los Angeles.

4 We have stood by you, and I ask you to
5 stand by us. My request includes my concern for the
6 company and the community. The more you give, the
7 greater the chances of success. And therefore, the
8 action is more prudent. Thank you.

9 CHAIRMAN KEMPER: Thank you, sir.

10 David Matthews.

11 MR. MATTHEWS: We don't have to worry
12 about our arms getting tired, I guess. Dave Matthews,
13 Ridgecrest, California.

14 I have a comment on the WEMO Plan here.
15 And then I would like to touch briefly maybe on a
16 thing that was brought up yesterday and on one of the
17 field office reports that I read over last night,
18 which I think should be worth your consideration.
19 Actually, two of them.

20 But before I do that, I would just like to
21 comment that I can vouch for what Bob was saying about
22 their students over there. I'm a member of the IEEE
23 up there, and we held a contest earlier this year.
24 And we asked for all of the participation among all
25 the schools. Well, Trona just happened to be the only

1 school that entered. But even so, we were very
2 impressed with the student work that they did over
3 there and their support, too.

4 There was some controversy, I think, when
5 Ed was talking about vehicle impact this morning. And
6 I will submit this comment in written form when I
7 comment on the WEMO Plan. But it might be worth your
8 consideration also. And I think that word "vehicle
9 impact" should be changed to something like "vehicle
10 usage" or "areas" or something like that. "Impact" to
11 me means that I'm looking for an impact of a vehicle
12 and a beast. And it was very misleading when he
13 started out, to say the least.

14 I read over a couple -- well, I think most
15 of the field managers' reports last night while I was
16 in the motel. And Roy Denner yesterday had talked
17 about the OHV vehicle use was increasing, would be
18 increased when the new survey comes out. And if you
19 would look at the Barstow field office report, under
20 law enforcement, it mentions in there that they have
21 witnessed increased OHV use in the last -- since the
22 last report. And what that is due to, I don't know.
23 But it does kind of give you a data point that that's
24 what the figures are going to be looking like.

25 In the El Centro field office report, there

1 was the discussion about a vehicle -- I'm sorry -- a
2 weekend pass for the RAMP, the Recreational Area
3 Management Plan. That fee or that pass was listed at
4 \$25 for a week. But whatever it is, it needs to be
5 defined either as an entrance fee or a camping fee or
6 a usage fee.

7 The reason I say that is because that's
8 important as far as the -- what you are going to
9 charge holders of Golden Age Passports, because if
10 it's an entrance fee, the Golden Age Passport doesn't
11 get charged anything. If it's a camping fee, then
12 it's 50 percent for the Golden Age Passport. And I
13 have one right here. Thank you.

14 CHAIRMAN KEMPER: Thank you,
15 Mr. Matthews.

16 Vicki Warren. Vicki, if you could take
17 just a little time and talk about the color red.

18 MS. WARREN: I know it pisses a lot of
19 people off. I could probably name a few right here.

20 First of all, I wanted to say thank you
21 because a lot of my questions that came up during the
22 WEMO discussion, I had them and they all came out
23 here. So that's a really good sign. It means
24 everybody is paying a lot of attention, and that's
25 great.

1 I also want to reiterate what Mr. Matthews
2 said. "Vehicle impact" disturbed me a lot. When we
3 talk about a tortoise occurrence, it's not a tortoise
4 impact. So when we are talking about a human or
5 vehicle occurrence, it should also be a human
6 occurrence, not an impact. If there is a way we could
7 get that changed so it's not so emotional, that would
8 really help.

9 Also, I don't have much. I just wanted to
10 let you know that when you are considering these
11 things to do what everybody has already asked you to
12 do, is don't do the knee-jerk reaction. Don't go for
13 the 13 percent recovery, go for the 87. Make sure
14 that what you are doing is the thoughtful approach and
15 science based, and not just the easy way to go.

16 I say that because in the very near future
17 there is going to be a lot of discussion coming to you
18 about Glamis. We have that business plan that Mr.
19 Matthews mentioned, and we are going to need your help
20 there, looking at it from a nonemotional and noneasy
21 way to go. It's not always an easy decision. And as
22 users and as a group, we will help you in any way we
23 can. So if you decide there are any committees or any
24 TRTs that you need assistance with to get some of this
25 information through, we are more than happy to help.

1 Thanks.

2 CHAIRMAN KEMPER: Thank you, Vicki. Don
3 Fife.

4 MR. FIFE: Thank you. Don Fife from
5 Lucerne Valley. I'm an ex-member of this board.

6 CHAIRMAN KEMPER: You passed out a
7 handout earlier. Could you describe what it is?

8 MR. FIFE: I passed out a couple of
9 handouts so I don't have to talk very long.

10 Most of what I have to say about the
11 endangered plant is actually laid out in three
12 articles. One is "Buckwheat, Oh-Ooooooh! You have
13 Eriogonum ovalifolium vineum!"

14 Another one is a direct quote from a Forest
15 Service botanist on the limestone endemic weeds when
16 he thought I was an employee of the Forest Service.
17 He was a new hire and he didn't know he shouldn't tell
18 those things out of school. So the press release is
19 entitled "Everybody knows we don't really -- these
20 plants aren't really endangered. We just need them to
21 stop mining." That's after he thought I was a Forest
22 Service employee. And Howard and I have been working
23 on these plants for years. He knows they are not
24 endangered, at least most of them. They grow on
25 granite. They grow on other substrate. They are not

1 limestone endemic. The Forest Service only looked at
2 30,000 acres. The BLM has been the recipient of those
3 studies so that the Desert Plan area, conservation
4 area, has in the West Mojave Plan provisions for these
5 plants.

6 And I can guarantee you, most, if not all
7 of them, are snail duggers. They will be E-listed
8 when there is real scientific studies done. There is
9 not one single paper I have seen that supports the
10 listing. We know they grow on granite. Botanical
11 gardens has been growing them on granite. Howard, his
12 property, they have a little plantation where Parish's
13 Daisy and Oval Leaf Buckwheat are growing, planted
14 them ten years ago. They are spreading and living on
15 granite.

16 Forest Service botanists have taken samples
17 of the substrate and analyzed them and come up with
18 the analysis of granite 6 percent, 20 percent calcium
19 oxide. Real Limestones are like 40 to 56.0 percent
20 calcium oxide. They don't know the difference. So we
21 don't really have any good studies. They will be
22 delisted, and you can expect that to happen. And I am
23 working on that with several botanists. So we have a
24 handout that talks about this.

25 There was a thesis done supported by the

1 Forest Service. And the thesis was sealed. I have
2 the thesis. There is nothing scientific proving their
3 case, as far as I can tell.

4 One other thing is that we have evidence, I
5 have real good evidence, sworn affidavits from two
6 people and actually published information and
7 information off the Net that some of these plants are
8 being planted on us out there. This is Lucerne
9 Valley, and the Big Bear area, apparently to stop gold
10 mining and limestone mining. And this will be
11 followed up. I have a list of about 50 people
12 involved, but we have sworn affidavits of several
13 people.

14 And this was brought to the attention of
15 the entire House on January 24, 2002, by now-
16 Congressman, Chairman Pombo of the resources
17 committee. So you will be hearing more about that.
18 So the handouts take care of that, and I will put more
19 out on the table out there.

20 "My Road is Not a Road" article, I revised
21 it, so I gave you another copy.

22 I would like to comment on the tortoise.

23 I grew up in Lucerne Valley. One of the
24 things I got involved in was tortoises, because there
25 were so many of them. We were talking earlier about

1 how few tortoises there were in the southern area,
2 Apple Valley and the Lucerne Valley. I don't know
3 about Antelope Valley because I didn't live there
4 until long after the farming was intense out there.

5 But I do know that when we started the
6 Conservation Club at Victor Valley High School in the
7 fifties, there was a tremendous number of tortoises
8 out there. And we had holding pens in Apple Valley
9 and Hesperia. So if you saw a tortoise on Highway 66,
10 you called a number, and a parent or kid would take it
11 off the highway and put them in holding pens. And
12 then our biologist instructor was a conservation
13 adviser. Some of you may remember Fred Burger, a
14 retired president of Victor Valley College. He was
15 our advisor, and we took these tortoises out in the
16 fall before they started to hibernate, and we found
17 areas where there is a lot of forage. And
18 unfortunately, a lot of those places are Stoddard
19 Valley and Johnson Valley, where there is vehicles
20 there today.

21 However, one of the things we did notice
22 was the results of the Armies out there, Patton and
23 others, had devastated the desert. In 1945 when I
24 went to the desert, the desert was flattened.
25 Millions and millions of bomb craters, artillery shell

1 craters, tank tracks. Patton in the southern desert
2 had 38,500 tanks and track vehicles for three and a
3 half years out there. And we worried about the
4 Algodones Dunes. That was one of the favorite places
5 for Patton to maneuver the training troops for North
6 Africa. So the Pierson's Milk Vetch I think probably
7 benefited because we found that a lot of these plants
8 like disturbance.

9 For example, I grew up on the Box X Ranch
10 and the Old Man Springs Ranch. And I recently was
11 doing some work with a helicopter in evaluating some
12 mineral properties. And I decided to come down and
13 look at the free play area. And I couldn't believe
14 it. It looked like it was plowed. This is Johnson
15 Valley near Soggy Dry Lake. And I was really amazed
16 that the whole place was plowed. The desert crust was
17 broken.

18 So San Diego State had an alumni campout
19 out there at Soggy Lake, and I was looking at the
20 forage compared to when I was a kid back in the
21 fifties at the Old Man Springs Ranch. And it was
22 amazing. There was so much more forage when you break
23 the desert crust. My observation was that after the
24 war, those crater that were full of -- bomb craters,
25 my dad actually rented a truck. And we picked up the

1 bomb casings and took them down to Fontana, sold them
2 for scrap.

3 But within about ten years after the war,
4 there had been a few cloudbursts. It doesn't rain
5 every year in the desert. But when it does, that
6 average 4 to 6 inches out there might be 10 to 12
7 inches in a single storm season. So the tank ruts,
8 they catch the seeds. When it rains, they sprouted.
9 The amazing thing to me in Johnson Valley was all the
10 new, actually smaller plants, grasses that were now
11 available for tortoises. And I think the tortoise
12 explosion we were probably seeing after the war was
13 the result of these military activities tearing up the
14 desert, and the seeds getting a chance to grow when it
15 rained.

16 So there probably is an unknown benefit to
17 off-road vehicles as long as it's not too intense.
18 There is a lot more food out there when you break the
19 ground. I think humans discovered agriculture 10,000
20 years ago by breaking the crust with a stick and
21 leaving a depression. So I think there is an unknown
22 quantity here that actually may benefit the tortoise.
23 And maybe the tortoise population we had after the war
24 was somewhat in response to the military activities.
25 They were intense, believe me.

1 I would like to comment on the death of
2 these tortoises, the mysterious death. In raising
3 tortoises, we had these large pens. We had to be
4 careful not to put more than one male in, usually, or
5 at least a mature male, a sexually active male,
6 because if you had more than one in there, it was
7 likely that he would turn the other one upside down in
8 competition for the females.

9 On several occasions I have had to chase
10 off coyotes when we were gone for a few days who had
11 come in to eat the feet off the tortoises that had
12 laid there for days upside down. So we did finally
13 decided we should have somebody check every day.

14 So I suspect maybe some of the dead
15 tortoises, 1 percent, 5 percent, might actually be
16 competition between the tortoise males because when
17 they get flipped over, not all tortoises can right
18 themselves. Occasionally some can. And I think it
19 has to do with the convexity of the shell. If they
20 don't just die out there of dehydration, after a while
21 they can't keep their legs in. The ravens come out,
22 the predators come out, and they will eat the feet off
23 of them. And I have seen that happen. So I think
24 that's an aspect that might explain a few of those
25 deaths that are not explained.

1 The other thing, I remember a thesis, I
2 think it was Larry Barnes, a friend of mine that
3 worked at Los Angeles County Museum, on the tortoises,
4 fossil tortoises that were found at Boron in '55 when
5 they started opening up the big pit. They found a
6 bunch of fossils out there. And as I recall, the age
7 of the tortoises and I believe the same species, was
8 Upper Pliocene or Lower Pleistocene, which would make
9 tortoises 2 to 3 million or maybe older. They have
10 been around a long time, and they have been subjected
11 to a lot of climactic change. And we know the last
12 ten or so years we have had this dry cycle.

13 The other thing I noticed, and I have had
14 the discussion with Kristin Berry, but she denies that
15 the aboriginal population ate tortoises. I can
16 guarantee you they ate tortoises. There was a
17 population impact from the people living there. They
18 ate rats, anything. My grandfather ate them. My dad
19 and uncles ate them as subsistence miners up until the
20 '20s. They were poor people. They didn't have much
21 food.

22 And I know when my great-grandfather,
23 Julian Chavez, came over the Spanish Trail in 1829,
24 they were eating tortoises occasionally. My
25 grandfather, Jon James Fife, had a trading post in

1 Riverside County in the 1880s. They had a holding pen
2 where they got tortoises from the local Indians in
3 trade for things. They were delicacies. I love
4 tortoises. I would never eat a tortoise, although I
5 ate a sea tortoise when I was working in Mexico. I
6 didn't kill the thing myself. But they were impacted
7 by the population that was here. Don't let anybody
8 kid you.

9 So anyway, I would just like to get my two
10 bits in on the tortoise, and that's it. Thank you.

11 CHAIRMAN KEMPER: Thank you, sir.

12 Preston would like to respond.

13 MR. ARROW-WEED: I admit that we did
14 kill those little guys and eat them. I'm not going to
15 lie about it. I'm carrying a smoking gun. That's one
16 thing about the Native Americans. If they did
17 something, they will admit it. There is no sense in
18 beating around the bush and saying you didn't do it
19 and find some way to get out of it.

20 But I do know it has been done. I do know
21 that that was really a delicacy to the Unitechas (as
22 pronounced) which was in Parker near Needles, the
23 Chemehuevi. They are not Hoka. We are Hoka; I know
24 we did too. We probably picked it up from them. I
25 will admit that.

1 MR. FIFE: My great-grandmother was
2 Indian, and she ate them too.

3 MR. ARROW-WEED: When they went down
4 south, there may have been a time when the government
5 didn't give us the food they were supposed to, and we
6 had to end up eating it too. So you have to blame the
7 government, too, if you really want to. But they did
8 do it too. They aren't innocent, so admitting the
9 truth is very important.

10 CHAIRMAN KEMPER: The important question
11 is what do they taste like?

12 MR. FIFE: One other question. I have
13 seen reports that the tortoise, two-thirds of the
14 range is not listed east and south of the Colorado. I
15 taught at the University of Baja California summer
16 field session, and some of the population still eat
17 tortoises to this day in Mexico.

18 CHAIRMAN KEMPER: Thank you. Jon, I
19 apologize. I always murder your name.

20 MR. DALGLEISH: That's all right. Jon
21 Dalglish, D-a-l-g-l-e-i-s-h.

22 I just have one quick comment on the
23 Barstow field office report. It lists off a lot of
24 volunteer activities. Last March, about 100 people
25 did a cleanup at Dumont Dunes. We filled a dumpster

1 almost half full of trash, and there was no mention of
2 it. I saw all the other volunteer activities and all
3 the other things that were listed, and I was a little
4 upset that nobody put anything in there for the work
5 that the off-highway vehicle group did.

6 CHAIRMAN KEMPER: I'm sure Tim Read will
7 rectify that.

8 MR. READ: Heads will roll.

9 MR. BETTERLY: The record has it.

10 CHAIRMAN KEMPER: I think that's all the
11 speaker slips I have. If I missed anybody, if they
12 would come to the mike. That will end our -- wait a
13 minute. You need to sit someplace where I can see
14 you. One last remark.

15 MS. BRASHEAR: I'm taking a brown box
16 with me --

17 CHAIRMAN KEMPER: You need to state your
18 name.

19 MS. BRASHEAR: Marie Brashear. I'm
20 taking a brown box home with me. You need to check
21 your mailing list. I am a member of the Super Group.
22 I participated in most of the task groups, and I have
23 yet to receive at my house a copy of the West Mojave
24 Plan. So I am hereby requesting at least another 45
25 days so that we can review the damn thing. Thank you.

1 CHAIRMAN KEMPER: Are you making the
2 request of the Advisory Council or the Bureau of Land
3 Management?

4 MS. BRASHEAR: Bureau of Land
5 Management.

6 CHAIRMAN KEMPER: Marie, I think you had
7 a comment that maybe you want on the record. What was
8 it? We couldn't hear it.

9 MS. BRASHEAR: You asked me if it was
10 the Bureau of Land Management or the Advisory Board,
11 and I said it was the BLM. I'm sure it's a clerical
12 error, but they need to check because the Advisory
13 Board can't change anything. They can recommend
14 changes, but they can't change anything.

15 CHAIRMAN KEMPER: I think that's an
16 important point. And I wanted you to get that on the
17 record. Also, if you wanted to take the opportunity
18 to leave your current address with somebody.

19 MS. BRASHEAR: They have that. I have
20 the Route Designation Book. Thank you. It's just
21 there is some foulup in their mailing program because
22 I didn't get the summary either. So somewhere in the
23 field. And if they skip me, they need to look and see
24 who else they might have skipped, compare whatever
25 came back in the mail, or maybe it didn't get sent. I

1 don't know how you do that.

2 CHAIRMAN KEMPER: Maybe, Linda, you
3 could explain to us how that happens.

4 MS. HANSEN: Oops.

5 MS. BRASHEAR: Mailing houses tend to
6 make mistakes.

7 MS. HANSEN: Those are mailed out
8 directly from the publicist. And we did do a cleanup
9 actually with the EA that was sent out on the route
10 designations. And if you got that, you should have
11 gotten this. But we will check on you and make sure
12 you are still in our data bank.

13 MS. BRASHEAR: Thank you.

14 MS. HANSEN: Take two. They are small.

15 CHAIRMAN KEMPER: Is there any other
16 comments from the public at large?

17 MR. SMITH: Can I make a comment? I
18 would like to respond to Mr. Strub's letter which he
19 was nice enough to read for us. I would hope that the
20 Bureau of Land Management will follow up with your
21 request and look at it from the standpoint of
22 equitable treatment of an important part of our
23 community out there. I don't think we can do
24 anything, but I hope that that's properly followed up.

25 MR. BETTERLY: There are many facets of

1 this particular thing, I know. And I'm not sure that
2 we as a DAC want to get involved in that particular
3 situation.

4 CHAIRMAN KEMPER: What I have on the
5 agenda is a meeting summary. But there are a couple
6 of items of business that we need to take care of that
7 are carryovers from yesterday.

8 One of them is the request from the
9 secretary regarding sustaining working landscapes.
10 And it appears that does have to do specifically with
11 grazing. They will be looking for recommendations
12 from the DAC as a whole at our next meeting which
13 tells me that we need a TRT in the interim.

14 So I will be looking for volunteers and
15 maybe wanting to call on some of the people on this
16 council to participate. Paul, you participated in the
17 last TRT, and I think it would be a lot of -- a good
18 benefit. Also, I believe Bob Ellis did. But you said
19 that you really didn't have an interest in doing it,
20 but I hope you would change your mind.

21 MR. ELLIS: I will be gone the month of
22 August, but other than that, I'm happy to participate.

23 CHAIRMAN KEMPER: Okay. And we will try
24 to -- if we meet in August, we will try to keep you
25 informed by e-mail. Bill?

1 MR. PRESCH: I don't know anything about
2 cows.

3 CHAIRMAN KEMPER: No, but you know a lot
4 about the desert. And Randy, do you have some time?
5 No? You would be good.

6 MR. SMITH: Could I make a request that
7 the Bureau provide at least a couple of people with
8 range management experience to this so that we have
9 some --

10 CHAIRMAN KEMPER: One of the things I
11 was going to hope to be able to pull together, I know
12 that Dr. Burkhart is working on the National Policy,
13 and he has worked for me on my ranch on building a
14 grazing strategy. And he might be somebody that I
15 could get to come down.

16 Also, I don't know if Hal Avery is still
17 around or Ray Bransfield, but some of the people that
18 we had in the last TRT, and see if we can pull some
19 stuff together in a short manner.

20 MR. BETTERLY: Bransfield is loaded
21 pretty heavy at this point.

22 CHAIRMAN KEMPER: Bill, you participated
23 in the last TRT. You can add an historical --

24 MR. BETTERLY: Right, historical. I can
25 tell you all about Valley Forge. I have no difficulty

1 with that.

2 CHAIRMAN KEMPER: So you would
3 participate as well. Great. Appreciate it.

4 Preston, do some of your people and the
5 people you represent still do some grazing?

6 MR. ARROW-WEED: No. He is going to
7 give me two of them.

8 CHAIRMAN KEMPER: We will pull in some
9 outside. Preston, do you have an interest on serving
10 on this subcommittee on grazing?

11 MR. ARROW-WEED: I don't know a thing
12 about it, but I'm willing to learn.

13 CHAIRMAN KEMPER: Okay. So let's go
14 ahead and put Preston on it, as well.

15 MS. HANSEN: Okay.

16 CHAIRMAN KEMPER: Maybe it would be
17 appropriate that we talk about a date for the TRT to
18 meet. We are meeting on the 19th and 20th in
19 September. I think we need to meet before then. So I
20 might ask everybody to check their calendars for July
21 and August. I think we will pick some place centrally
22 located.

23 MS. HANSEN: Let's go to Montana.

24 CHAIRMAN KEMPER: Nipton worked really
25 good. Actually, I told everybody I was going to give

1 them a treat. Tell you what I'm going to do. We have
2 a little business outside of -- or actually inside
3 Laughlin, and we just worked out a deal with Harrah's
4 to comp us rooms every month. And so if we keep the
5 group small enough, I think I can get us all comped
6 rooms at Harrah's in Laughlin.

7 MR. MATTHEWS: You need any more
8 volunteers?

9 CHAIRMAN KEMPER: I think the sooner the
10 better. So if we can do it in July or --

11 MR. SMITH: July is very tough for Paul.

12 MR. BETTERLY: I will be in Louisiana in
13 July. I have a water meeting in July, and I have a
14 meeting in Louisiana.

15 CHAIRMAN KEMPER: Does weekdays work
16 better or weekends?

17 MR. PRESCH: How many days are you
18 thinking about?

19 CHAIRMAN KEMPER: Couple days.

20 MR. PRESCH: I'm in New York the 25th to
21 26th of July.

22 MR. ELLIS: Maybe we could do that on
23 e-mail after the first part of the next week. We
24 could get Doran to organize it.

25 CHAIRMAN KEMPER: We will work with

1 whatever works best for the majority.

2 Then I think the other item that we need to
3 talk about a little bit is weeds. We will be getting
4 a request from the secretary. They are building a
5 national policy regarding invasive weeds. And they
6 want input from every RAC and DAC because they realize
7 our regions are different. And we had some comments
8 from people in Montana and Wyoming having to deal with
9 the washing of undercarriages of vehicles because of
10 mud. And some of the things aren't going to apply
11 down here or at least how we apply them. So I think
12 it's important that we have a set of recommendations
13 regarding this district.

14 So who do we have here on the Council that
15 would be willing to serve on a TRT regarding weeds?
16 I've got to tell you, this is the No. 1 priority for
17 the Secretary of Interior, invasive weeds. And
18 actually, we went through about a three-hour
19 presentation on the spread of weeds across North
20 America. And they are very, very concerned.

21 MR. ELLIS: Well, I wish we had a native
22 plant person on the DAC right now. I'm sure that
23 person would be interested. It's definitely a big
24 environmental problem. I'm certainly interested, but
25 my time is stretched. You know, we see the Sierra

1 mustard making its way north. It's just going wild
2 and it's a big problem, and nobody over in the BLM is
3 talking about it. It's like a big, dark secret for
4 some reason. So it's a very interesting problem, but
5 a lot of people are stretched for time.

6 CHAIRMAN KEMPER: They are really
7 talking about it in Washington. And I believe as a
8 livestock producer I can make a big difference. I'm
9 happy to serve on that TRT. I know that Howard has
10 been involved with the management of plant communities
11 and reclaiming mines, so maybe he would have an
12 interest.

13 MR. BROWN: Sure, I'm in.

14 MR. SMITH: Can I make a request?

15 CHAIRMAN KEMPER: Sure.

16 MR. SMITH: I think it would be useful
17 as an agenda item next time for Linda to arrange for
18 the people that deal with this issue on staff to
19 prepare and deliver a report to us.

20 MS. HANSEN: I would be glad to provide
21 information on the weed management programs that are
22 active in BLM in California. I'm not sure I have
23 anyone specifically on staff actually involved in weed
24 management. There are folks in the field offices who
25 have been involved. Kim, who is now in the Needles

1 office, was involved out of Ridgecrest previously.

2 But there are very active weed management
3 programs ongoing in California. It is a fairly
4 significant issue with the BLM in California, and I
5 will be happy to provide what's going on, which would
6 give you a starting point to talk about what you are
7 going to do.

8 MR. SMITH: There is a rather dramatic
9 story in Afton Canyon and somebody in the BLM worked
10 on that. Maybe they have gone back to Washington.

11 MS. HANSEN: Tim, in your field office,
12 I know you have some folks that are working on weed
13 management.

14 MR. READ: I would be happy to prepare a
15 program for the September meeting. We are very
16 active. We have gotten the Desert Management Group
17 involved, and there is lot going on.

18 MS. HANSEN: I don't have a weed
19 specialist in the district office.

20 CHAIRMAN KEMPER: I saw Mike nod his
21 head. He would be willing to serve on the TRT; is
22 that correct?

23 MR. BUGERA: Yes.

24 MR. MCARTHUR: Anthony Chavez is always
25 there holding the meeting at the BLM meetings in

1 Barstow.

2 CHAIRMAN KEMPER: Karl, if we ask you to
3 come in as outside support, would that be something
4 you would be willing to do?

5 MR. McARTHUR: Yes.

6 MR. PRESCH: Karl, don't you have a
7 botanist at the extension there? Edith?

8 MR. McARTHUR: Edith Allen.

9 MR. PRESCH: She is a weed person.

10 CHAIRMAN KEMPER: Eileen Anderson?

11 MS. ANDERSON: I would like to suggest
12 that the bulk of the weed work in the desert areas has
13 been done by a USGS researcher named Matt Brooks out
14 in Nevada, Las Vegas Field Station. And he might also
15 be an excellent resource.

16 CHAIRMAN KEMPER: Matt Brooks, maybe we
17 can contact him.

18 MR. McARTHUR: About Matt Brooks, they
19 have already been doing some studies on nutritional
20 values of the Nebraska on desert tortoise too. And he
21 is part of the weed management area. It extends quite
22 a ways out there across the border.

23 CHAIRMAN KEMPER: Very good. I think
24 that's a good start. Once again, as far as dates, we
25 will -- you know something -- Hey, Preston, don't you

1 guys have a big weed and invasive problem?

2 MR. ARROW-WEED: Sure.

3 CHAIRMAN KEMPER: Is that something you

4 would like to be involved with?

5 MR. ARROW-WEED: How much time is that?

6 Four days, two days a piece?

7 CHAIRMAN KEMPER: But the second one you

8 don't get to go to Laughlin.

9 MR. ARROW-WEED: Forget it, then. All

10 right. I will help you.

11 CHAIRMAN KEMPER: We will get Preston on

12 the weeds.

13 And then I think the next item of business

14 is we need to -- am I missing something? There was

15 another strategy. That was the report cards for the

16 area managers and the district manager, but I think --

17 MS. HANSEN: Turn those in at the end of

18 the day.

19 CHAIRMAN KEMPER: I think that's

20 something we can come up with and make you aware of at

21 the end of the year.

22 MS. HANSEN: Which year?

23 CHAIRMAN KEMPER: This year.

24 MS. HANSEN: What end?

25 CHAIRMAN KEMPER: Well, I think December

1 is typically the year end of the year.

2 MS. HANSEN: Ours is in September. Ron,
3 I would like to just comment.

4 You have approximately four days worth of
5 agenda items that you are trying to pack into
6 September 19 and 20th. You may want to now take a
7 look out at what would be your next meeting dates
8 after September and perhaps reschedule some of these
9 agenda items for that meeting, because I think you are
10 going to run out of time to do it all in September.

11 CHAIRMAN KEMPER: What is the list of
12 agenda items you have now?

13 MS. HANSEN: Bob suggested that he would
14 like to provide an economic value of wilderness
15 discussion.

16 MR. ELLIS: It won't take long.

17 MS. HANSEN: I think we have some
18 additional county information that was going to be
19 supplied on that.

20 Your sustaining working landscapes requires
21 at least one-half of a day being spent in that, with
22 public comment. So at least one-half of one day will
23 be spent with the public's involvement in that
24 discussion, as per the request of the secretary, plus
25 whatever time you want to spend on it. You also have

1 Surprise Canyon on the list for next time. There was
2 some --

3 CHAIRMAN KEMPER: The next meeting is in
4 Ridgecrest. Correct?

5 MS. HANSEN: Yes, plus we have PILT,
6 plus we have -- it was suggested we might even want to
7 have OHV commissioners come and talk to us about OHV
8 commission activity. That may be a later item. I
9 don't know that that can happen by September.

10 CHAIRMAN KEMPER: What are you
11 comfortable with doing?

12 MS. HANSEN: Well, I think since we had
13 planned to do Surprise Canyon for you in September and
14 will be ready to do that, probably we should make time
15 on the agenda for that.

16 And I would think, based on the amount of
17 time we spent with the West Mojave today and the
18 amount of interest there is and what's happening with
19 Surprise Canyon, that's probably a good chunk of time.
20 You are talking a couple of hours to do that.

21 You have half a day committed to the public
22 involvement part of sustaining working landscapes,
23 plus whatever time the Council might want to spend
24 itself with reports from your TRT or whatever you want
25 to do with that to voice a recommendation. Should we

1 get to that, I think that's a full day's work in that.

2 If you want to save a day for touring or if
3 we want to add a day for touring, then you might have
4 potentially another half a day, because you have half
5 a day normally taken up.

6 MR. ELLIS: Yesterday Dick Crow said
7 there would not be any new information available on
8 Surprise in September. Those documents,
9 administrative drafts, those are supposed to come out
10 later in the fall. He agreed to give us an update
11 report, but there will be no TRT meeting between now
12 and then that any of us would be involved in so I
13 imagine we would get a short update, but not really
14 very much to comment on. So I don't think that takes
15 long, unless I'm mistaken about that.

16 CHAIRMAN KEMPER: Let me ask a question.
17 Are you leading the TRT now, Paul, or are you, Bob?

18 MR. SMITH: I think that there is a
19 misunderstanding because while we participate in the
20 technical review team, we really don't effectively
21 lead it, to be honest with you. We participate, make
22 comments.

23 MS. HANSEN: Maybe I could shed a little
24 bit of light on what happened with that. Actually,
25 when Gary was assigned to be the chairman of your TRT,

1 we did pull together that TRT group. And Paul, I
2 don't think you were able to meet with us. And I'm
3 not sure Bob was able to meet with us to talk about a
4 couple of issues prior to the planning meetings that
5 were happening with the planning staff.

6 So there was some TRT work that was done
7 outside of the group that you have been functioning
8 with. Now, when Jeri was not here and after the
9 planning group started forming and meeting, there have
10 been no further meetings of just the TRT members since
11 that time. So if there is the need to regenerate, I
12 guess, that TRT with just the DAC members, if you have
13 a purpose, that's fine. We can do that.

14 CHAIRMAN KEMPER: As I understand it,
15 the technical review team is actually made up of the
16 DAC members. And you pull in as many outside
17 resources as you can to help you. And then you come
18 back with the recommendation to the DAC. What I am
19 hearing is you think all the work has been done. But
20 I don't know if we have heard a recommendation.

21 MR. SMITH: All the work has not been
22 done. We have to recognize there are a number of
23 other agencies participating in this, particularly the
24 National Park Service. That's why I think we
25 mischaracterize ourselves as being the leaders in

1 that. But I think there will be a time when we come
2 back and make a recommendation.

3 CHAIRMAN KEMPER: You are the only ones
4 that are the TRT?

5 MR. SMITH: If you want to say that,
6 that's fine. But we don't function, that I have seen,
7 independently of this larger group that is the
8 National Park Service --

9 MS. HANSEN: You have not since the
10 first meeting that Jeri called.

11 MR. SMITH: From a practical standpoint,
12 I think we are waiting to see a Draft Environmental
13 Impact Statement that would incorporate some of the
14 work that Dick Crow has caused to expand the scope of
15 the environmental review. I know that Death Valley is
16 working on a historical review with the County of
17 Inyo.

18 I think it would be far more meaningful,
19 actually, as Bob said, when that gets put together
20 with a document that people can see, and there
21 probably will be a meeting at that juncture.

22 CHAIRMAN KEMPER: So you agree that you
23 probably won't be ready for anything in September and
24 possibly won't even meet between now and then?

25 MR. SMITH: If you asked for a report

1 now, it would probably be to brief the new members on
2 Surprise Canyon.

3 CHAIRMAN KEMPER: What I would ask is
4 that you do update Ron Schiller and get him up to
5 speed.

6 MS. HANSEN: So take that off the
7 agenda?

8 CHAIRMAN KEMPER: They are not going to
9 have anything to tell us. Though, you know, I would
10 suspect that the people in Ridgecrest will be looking
11 forward to some form of discussion or another
12 opportunity to give public input on their wants of
13 Surprise Canyon.

14 MR. ELLIS: That was partly why we had
15 the meeting in Ridgecrest. I don't see why Dick Crow,
16 or whoever the BLM lead is, couldn't give us a status
17 report on where things are at. They would probably
18 have had perhaps another administrative meeting or
19 staff meeting between the parks up at that point.
20 They can give us an update.

21 Maybe there will be some information that
22 the BLM has with respect to this question of access on
23 whoever, you know, owns the property up there. There
24 might be some issues. But I don't think the TRT,
25 whose role so far has been to sort of be over on the

1 side of this interagency EIS development process, we
2 won't have much news. That's all.

3 CHAIRMAN KEMPER: Jon.

4 MR. McQUISTON: As I understand it, the
5 draft EIS for Surprise Canyon, was that the one
6 scheduled in January or so?

7 MR. ELLIS: Yes.

8 MS. HANSEN: We are anticipating having
9 a preliminary administrative draft to take a look at
10 sometime late September, with October being now the
11 projected time for an administrative draft. That
12 would be circulated throughout all of the agencies and
13 members of the planning group. So September might be
14 a little preliminary for that.

15 MR. McQUISTON: But in terms of the
16 draft published --

17 MS. HANSEN: January.

18 MR. McQUISTON: Quite frankly, I think
19 just a program update, where are we in the process,
20 once the draft comes out, to coincide, formal just
21 like we are doing with WEMO now. The alternatives
22 would probably be fine at a later meeting, and I'm
23 assuming there is going to be some public hearings
24 associated with that, one of which can be in
25 Ridgecrest or wherever else it needs to be.

1 And in terms of other things on the agenda,
2 the economic briefing that we will put out lends
3 itself very well to a handout, doesn't need any
4 discussions unless there are questions. And I suspect
5 even the PILT in terms of being informative could be a
6 handout. And one of those things that on our agenda
7 we handle more like consent, this is what we know,
8 this is what it is. We don't do a full briefing.
9 Just respond to questions.

10 MR. ELLIS: I would like to hope that we
11 could have a quick little update on RS 477 since that
12 seems to be something that has shifts and movement in
13 the last three months. So maybe we can get a quick
14 update on that. It won't take long.

15 MS. HANSEN: You are adding, not
16 subtracting.

17 CHAIRMAN KEMPER: I think Bob is asking
18 just to inform the Council as to what the updates are,
19 ten minutes or less. That would be plenty.

20 MS. HANSEN: I guess I still would
21 suggest that you have one full day spending on
22 sustaining working landscapes.

23 CHAIRMAN KEMPER: I agree. We have two
24 days on the calendar, and I'm unclear whether or not
25 we have been offered a tour, if we think we are going

1 to have a tour, and if so, does it need to take a
2 whole day, half day?

3 MR. McQUISTON: It will be all day
4 because it's a long ride up there.

5 CHAIRMAN KEMPER: Would it be the
6 Council's pleasure to have a three-day workshop like
7 we have had this time or --

8 MR. BUGERA: If one day includes a tour,
9 yes.

10 CHAIRMAN KEMPER: One day would be a
11 tour, then two days to do business.

12 MR. BUGERA: I'm for that. BLM has
13 helicopters, don't they? We don't have to drive.

14 MS. HANSEN: They are all black.

15 MR. McQUISTON: Helicopters where you
16 are going are used as targets.

17 CHAIRMAN KEMPER: Lorelei. I'm sorry I
18 was having a senior moment there.

19 MS. OVIATT: I just wanted to clarify
20 since there are logistical restrictions on this tour,
21 that Doran is completely cleared on is the public
22 invited? Could the public come? If the public could
23 come, what kind of restrictions they would have to go
24 through. I just want to put that into the mix here
25 since your tours -- I'm not clear. Are your tours

1 always public? Is the public always invited?

2 MR. McQUISTON: Jon McQuiston. I don't
3 know the answer to that. That will depend. Number
4 one, I will make an inquiry with the command, and
5 whatever they give me in terms of is it doable, yes or
6 no, and if it's doable, whether it will be limited to
7 members of the DAC or public or a certain number of
8 public and give feedback to the Chair.

9 CHAIRMAN KEMPER: I think the real
10 question is, Does everybody have time to give three
11 days or just two days? Or if they don't want to go on
12 the tour they can show up for the business part of the
13 meeting. Everybody agrees? Doran?

14 MR. SANCHEZ: Friday and Saturday are
15 the business days and the tour would be on Thursday?

16 MR. McQUISTON: Don't lock it in because
17 the base is operating. Thursday is a test day and
18 Friday, maybe. I'm going to give a request to the
19 command for either Thursday, Friday or Saturday and
20 see what comes back. Or we could do Friday, Saturday
21 and Sunday, but I don't want to lock them in to which
22 day of those three. I would rather make an inquiry
23 and get feedback from them.

24 CHAIRMAN KEMPER: I think, just to give
25 us all the options that we can deal with on the

1 Council, probably what we wanted is three days. And
2 we either want to do the tour the first day or last
3 day, where if somebody needs to pull out, at least
4 they can be there for all the business, and come back
5 Saturday where some of these people are commuting
6 hundreds of miles.

7 MR. McQUISTON: That's fine. I'm only
8 suggesting that if you are doing three days, rather
9 than lock it in to Thursday, Friday and Saturday, you
10 might want to look at Friday, Saturday, and Sunday
11 because if you lock it and one of the days is
12 Thursday, I can virtually assure you that a tour won't
13 happen on that date.

14 CHAIRMAN KEMPER: I think Friday,
15 Saturday and Sunday are fine, but my only request is
16 make it either the first or last day.

17 MR. SCHILLER: I just have a question.
18 If you modify the agenda or the meeting dates, do you
19 have to have Federal Register notice?

20 MS. HANSEN: The business meeting dates
21 are already in the Federal Register for the 19th and
22 20th. If you still meet on those two dates, we are
23 okay. If you add a tour and especially if it's not
24 going to be one that we can offer to the public, Jon,
25 then that's probably not an issue. But we will amend

1 any notices if we amend the schedule on calendar. And
2 that needs to be done 30 days in advance of the
3 meeting, so we need to do whatever arrangements you
4 need to do fairly quickly.

5 MR. McQUISTON: Does the BLM do like we
6 do? Let's say you needed a tour. You convene, the
7 board comes, you convene, and you recess for a tour.
8 We do that.

9 MR. SANCHEZ: Our problem is we are
10 scheduling rooms and we are paying for them. So --

11 MS. HANSEN: We just want to be clear on
12 what days you will have the business meeting and the
13 tour can be arranged around it.

14 CHAIRMAN KEMPER: Roy did tell me he
15 likes campouts and barbecues, so he is willing to
16 participate.

17 MS. HANSEN: To finish up on my question
18 about your agenda, the weed management issue, Tim has
19 offered to provide staff and people to make that
20 presentation. Do we want to put that off until the
21 following meeting? It sounds to me like in order to
22 have a good -- Tim, what will we need for a program of
23 that type?

24 MR. READ: I would think at least half a
25 day.

1 MS. HANSEN: So I guess I'm suggesting
2 do we relieve him from September for that program and
3 put it onto the next meeting?

4 CHAIRMAN KEMPER: The way I understand
5 it is we are going to have two full days for business
6 and we are going to have half a day for grazing.

7 MS. HANSEN: We are going to have a full
8 day on grazing.

9 CHAIRMAN KEMPER: Okay. You want to put
10 it on the next calendar day?

11 MS. HANSEN: I would suggest that.
12 Maybe since we are using Tim's staff, maybe we could
13 have the next meeting in an area that's a closer
14 location. And that would mean that they wouldn't have
15 to travel and be out of the office as much. It will
16 also give you an opportunity to convene your TRT in
17 the interim time.

18 CHAIRMAN KEMPER: What other items do
19 you have?

20 MS. HANSEN: Next meeting date.

21 MR. ELLIS: What about December 5 and 6
22 in Barstow?

23 MR. THOMSEN: That's the same time as
24 the State OHV Commission's hearing for Southern
25 California grants.

1 MS. HANSEN: I thought that was the
2 18th.

3 MR. THOMSEN: I have it as the 4th and
4 5th.

5 MS. HANSEN: Okay.

6 MR. McQUISTON: I'm not sure if I have a
7 conflict. But if I do, there is always Wally.

8 MR. ELLIS: The next date would be the
9 12th and 13th. If we go back one, we are hitting
10 Thanksgiving, and I don't think we can do that.

11 CHAIRMAN KEMPER: Well, the day after
12 Thanksgiving everybody will be sleepy.

13 MR. McQUISTON: 12th and 13th works for
14 me. I think I have a problem with the 5th.

15 CHAIRMAN KEMPER: The 12th and 13th
16 works for me, or the 21st or 22nd of November works
17 for me.

18 MR. PRESCH: The 12th and 13th sounds
19 good, in Barstow.

20 MR. BETTERLY: That works for me.

21 MR. SMITH: Looks good.

22 CHAIRMAN KEMPER: Ron Schiller?

23 MR. SCHILLER: We will make it work.

24 CHAIRMAN KEMPER: Preston?

25 MR. ARROW-WEED: Sure.

1 MR. RISTER: Yes.

2 MR. BROWN: I have to check with my
3 wife.

4 CHAIRMAN KEMPER: Bob?

5 MR. ELLIS: Oh, yes, fine with me.

6 CHAIRMAN KEMPER: Linda?

7 MS. HANSEN: On my calendar.

8 CHAIRMAN KEMPER: Very good.

9 MR. READ: Do you want a field trip? Do
10 you want to go look at a weed?

11 MR. SMITH: You know, actually that's
12 maybe a very good idea because what you did accomplish
13 in Afton Canyon is very dramatic. And that could also
14 be handled in half a day.

15 CHAIRMAN KEMPER: I think probably what
16 we need to do, I think the secretary has loaded up our
17 work schedule. And if we are going to have tours that
18 don't allow us to do business, that we may want to
19 make those optional three-day events, at least until
20 we get through the workload. Any comments?

21 MR. SMITH: Are there any members of the
22 DAC who have not been to Afton Canyon before?

23 MR. BROWN: I haven't been there for
24 many years.

25 MR. SMITH: If we did that for the

1 afternoon before, it's a beautiful place to see.

2 There is a reason why they call it the Little Grand
3 Canyon of the Mojave, in addition to what we would
4 learn about the eradication of exotic species.

5 CHAIRMAN KEMPER: Tim, could you do it
6 in half a day? Well, days aren't going to be long
7 then. Show up at 12 or 1 o'clock and run everybody
8 out?

9 MR. READ: It's about 45 minutes from
10 the office, and we could arrange for a two- or three-
11 hour tour and see an awful lot. So I think it could
12 work.

13 CHAIRMAN KEMPER: So your suggestion,
14 Paul, is to do that like on Thursday afternoon? I
15 think that's great. Doran?

16 MR. SANCHEZ: That's a three-day meeting
17 also?

18 CHAIRMAN KEMPER: Well, I think that
19 there will be people that want to go on the tour, and
20 it will actually be a two-and-a-half-day meeting, I
21 guess.

22 MR. BETTERLY: Two nights is what you
23 are talking about?

24 CHAIRMAN KEMPER: They are always two
25 nights.

1 MR. SANCHEZ: So it would be three
2 nights?

3 CHAIRMAN KEMPER: No, two nights.
4 Thursday night and Friday night. Isn't that what we
5 normally did? Okay. Any other business?

6 MR. BETTERLY: Move we adjourn.

7 MR. BUGERA: Second.

8 CHAIRMAN KEMPER: Any opposed? Hearing
9 none, motion carries.

10 (The proceedings was concluded at 4:30 p.m.)

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1 R E P O R T E R ' S C E R T I F I C A T E

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3 I, Judith W. Gillespie, a certified
4 shorthand reporter, do hereby certify that the
5 foregoing pages comprise a full, true and correct
6 transcription of the proceedings had and the testimony
7 taken at the hearing in the hereinbefore-entitled
8 matter of June 28, 2003.

9 Dated this 25th day of July, 2003, at
10 Riverside, California.

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Judith W. Gillespie, CSR No. 3710

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